



# GENERAL ASSEMBLY

## COMMONWEALTH OF KENTUCKY

### 2012 REGULAR SESSION

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SENATE BILL NO. 97

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WEDNESDAY, FEBRUARY 15, 2012

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The following bill was reported to the House from the Senate and ordered to be printed.

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ALISON LUNDERGAN GRIMES  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY Mary Sue Jeter

1 AN ACT relating to property.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. KRS 355.7-101 IS REPEALED AND REENACTED TO READ  
4 AS FOLLOWS:

5 *This article may be cited as Uniform Commercial Code-Documents of Title.*

6 ➔SECTION 2. KRS 355.7-102 IS REPEALED AND REENACTED TO READ  
7 AS FOLLOWS:

8 *(1) In this article, unless the context otherwise requires:*

9 *(a) "Bailee" means a person that by a warehouse receipt, bill of lading, or other*  
10 *document of title acknowledges possession of goods and contracts to deliver*  
11 *them;*

12 *(b) "Carrier" means a person that issues a bill of lading;*

13 *(c) "Consignee" means a person named in a bill of lading to which or to whose*  
14 *order the bill promises delivery;*

15 *(d) "Consignor" means a person named in a bill of lading as the person from*  
16 *which the goods have been received for shipment;*

17 *(e) "Delivery order" means a record that contains an order to deliver goods*  
18 *directed to a warehouse, carrier, or other person that in the ordinary course*  
19 *of business issues warehouse receipts or bills of lading;*

20 *(f) Reserved;*

21 *(g) "Goods" means all things that are treated as movable for the purposes of a*  
22 *contract for storage or transportation;*

23 *(h) "Issuer" means a bailee that issues a document of title or, in the case of an*  
24 *accepted delivery order, the person that orders the possessor of goods to*  
25 *deliver. The term includes a person for which an agent or employee*

26 *purports to act in issuing a document if the agent or employee has real or*  
27 *apparent authority to issue documents, even if the issuer did not receive any*

goods, the goods were misdescribed, or in any other respect the agent or employee violated the issuer's instructions;

(i) "Person entitled under the document" means the holder, in the case of a negotiable document of title, or the person to which delivery of the goods is to be made by the terms of, or pursuant to instructions in a record under, a nonnegotiable document of title;

(j) Reserved;

(k) "Sign" means, with present intent to authenticate or adopt a record:

1. To execute or adopt a tangible symbol; or

2. To attach to or logically associate with the record an electronic sound, symbol, or process;

(l) "Shipper" means a person that enters into a contract of transportation with a carrier; and

(m) "Warehouse" means a person engaged in the business of storing goods for hire.

(2) Definitions in other articles applying to this article and the sections in which they appear are:

(a) "Contract for sale," KRS 355.2-106;

(b) "Lessee in ordinary course," Section 54 of this Act; and

(c) "'Receipt' of goods," Section 45 of this Act.

(3) In addition, Article 1 of KRS Chapter 355 contains general definitions and principles of construction and interpretation applicable throughout this article.

➔SECTION 3. KRS 355.7-103 IS REPEALED AND REENACTED TO READ  
AS FOLLOWS:

(1) This article is subject to any treaty or statute of the United States or a regulatory statute of this state to the extent the treaty, statute, or regulatory statute is applicable.

1 (2) This article does not repeal or modify any law prescribing the form or contents of  
 2 a document of title or the services or facilities to be afforded by a bailee, or  
 3 otherwise regulating a bailee's businesses in respects not specifically treated in  
 4 this article. However, violation of these laws does not affect the status of a  
 5 document of title that otherwise complies with the definition of a document of  
 6 title.

7 (3) This article modifies, limits, and supersedes the federal Electronic Signatures in  
 8 Global and National Commerce Act, 15 U.S.C. secs. 7001 et seq., but does not  
 9 modify, limit, or supersede Section 101(c) of that Act, 15 U.S.C. sec. 7001(c), or  
 10 authorize electronic delivery of any of the notices described in Section 103(b) of  
 11 that Act, 15 U.S.C. sec. 7003(b).

12 (4) To the extent there is a conflict between the Uniform Electronic Transactions Act  
 13 and this article, this article governs.

14 ➔SECTION 4. KRS 355.7-104 IS REPEALED AND REENACTED TO READ  
 15 AS FOLLOWS:

16 (1) A document of title is negotiable if by its terms the goods are to be delivered to  
 17 bearer or to the order of a named person.

18 (2) A document of title other than one described in subsection (1) of this section is  
 19 nonnegotiable. A bill of lading that states that the goods are consigned to a  
 20 named person is not made negotiable by a provision that the goods are to be  
 21 delivered only against an order in a record signed by the same or another named  
 22 person.

23 (3) A document of title is nonnegotiable if, at the time it is issued, the document has  
 24 a conspicuous legend, however expressed, that it is nonnegotiable.

25 ➔SECTION 5. KRS 355.7-105 IS REPEALED AND REENACTED TO READ  
 26 AS FOLLOWS:

27 (1) Upon request of a person entitled under an electronic document of title, the issuer

1 of the electronic document may issue a tangible document of title as a substitute  
 2 for the electronic document if:

3 (a) The person entitled under the electronic document surrenders control of the  
 4 document to the issuer; and

5 (b) The tangible document when issued contains a statement that it is issued in  
 6 substitution for the electronic document.

7 (2) Upon issuance of a tangible document of title in substitution for an electronic  
 8 document of title in accordance with subsection (1) of this section:

9 (a) The electronic document ceases to have any effect or validity; and

10 (b) The person that procured issuance of the tangible document warrants to all  
 11 subsequent persons entitled under the tangible document that the warrantor  
 12 was a person entitled under the electronic document when the warrantor  
 13 surrendered control of the electronic document to the issuer.

14 (3) Upon request of a person entitled under a tangible document of title, the issuer of  
 15 the tangible document may issue an electronic document of title as a substitute  
 16 for the tangible document if:

17 (a) The person entitled under the tangible document surrenders possession of  
 18 the document to the issuer; and

19 (b) The electronic document when issued contains a statement that it is issued  
 20 in substitution for the tangible document.

21 (4) Upon issuance of the electronic document of title in substitution for a tangible  
 22 document of title in accordance with subsection (1) of this section:

23 (a) The tangible document ceases to have any effect or validity; and

24 (b) The person that procured issuance of the electronic document warrants to  
 25 all subsequent persons entitled under the electronic document that the  
 26 warrantor was a person entitled under the tangible document when the  
 27 warrantor surrendered possession of the tangible document to the issuer.

➔SECTION 6. A NEW SECTION OF ARTICLE 7 OF KRS CHAPTER 355 TO  
BE NUMBERED 355.7-106 IS CREATED TO READ AS FOLLOWS:

(1) A person has control of an electronic document of title if a system employed for evidencing the transfer of interests in the electronic document reliably establishes that person as the person to which the electronic document was issued or transferred.

(2) A system satisfies subsection (1) of this section, and a person is deemed to have control of an electronic document of title, if the document is created, stored, and assigned in such a manner that:

(a) A single authoritative copy of the document exists which is unique, identifiable, and, except as otherwise provided in paragraphs (d), (e), and (f) of this subsection, unalterable;

(b) The authoritative copy identifies the person asserting control as:

1. The person to which the document was issued; or

2. If the authoritative copy indicates that the document has been transferred, the person to which the document was most recently transferred;

(c) The authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(d) Copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(e) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(f) Any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

➔SECTION 7. KRS 355.7-201 IS REPEALED AND REENACTED TO READ

1 AS FOLLOWS:

2 (1) A warehouse receipt may be issued by any warehouse.

3 (2) If goods, including distilled spirits and agricultural commodities, are stored  
 4 under a statute requiring a bond against withdrawal or a license for the issuance  
 5 of receipts in the nature of warehouse receipts, a receipt issued for the goods is  
 6 deemed to be a warehouse receipt even if issued by a person that is the owner of  
 7 the goods and is not a warehouse.

8 ➔ SECTION 8. KRS 355.7-202 IS REPEALED AND REENACTED TO READ  
 9 AS FOLLOWS:

10 (1) A warehouse receipt need not be in any particular form.

11 (2) Unless a warehouse receipt provides for each of the following, the warehouse is  
 12 liable for damages caused to a person injured by its omission:

13 (a) The location of the warehouse facility where the goods are stored;

14 (b) The date of issue of the receipt;

15 (c) The unique identification code of the receipt;

16 (d) A statement whether the goods received will be delivered to the bearer, to a  
 17 named person, or to a named person or its order;

18 (e) The rate of storage and handling charges, but if goods are stored under a  
 19 field warehousing arrangement, a statement of that fact is sufficient on a  
 20 nonnegotiable receipt;

21 (f) A description of the goods or the packages containing them;

22 (g) The signature of the warehouse or its agent;

23 (h) If the receipt is issued for goods that the warehouse owns, either solely,  
 24 jointly, or in common with others, the fact of that ownership; and

25 (i) A statement of the amount of advances made and of liabilities incurred for  
 26 which the warehouse claims a lien or security interest, but if the precise  
 27 amount of advances made or of liabilities incurred is, at the time of the

issue of the receipt, unknown to the warehouse or to its agent that issued the receipt, a statement of the fact that advances have been made or liabilities incurred and the purpose of the advances or liabilities is sufficient.

(3) A warehouse may insert in its receipt any terms that are not contrary to the Uniform Commercial Code and do not impair its obligation of delivery under Section 28 of this Act or its duty of care under Section 10 of this Act. Any contrary provisions are ineffective.

➔SECTION 9. KRS 355.7-203 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

A party to or purchaser for value in good faith of a document of title, other than a bill of lading, that relies upon the description of the goods in the document may recover from the issuer damages caused by the nonreceipt or misdescription of the goods, except to the extent that:

(1) The document conspicuously indicates that the issuer does not know whether all or part of the goods in fact were received or conform to the description, such as a case in which the description is in terms of marks or labels or kind, quantity, or condition, or the receipt or description is qualified by "contents, condition, and quality unknown," "said to contain," or words of similar import, if the indication is true; or

(2) The party or purchaser otherwise has notice of the nonreceipt or misdescription.

➔SECTION 10. KRS 355.7-204 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A warehouse is liable for damages for loss of or injury to the goods caused by its failure to exercise care with regard to the goods that a reasonably careful person would exercise under similar circumstances. However, unless otherwise agreed, the warehouse is not liable for damages that could not have been avoided by the

1 exercise of that care.

2 (2) Damages may be limited by a term in the warehouse receipt or storage agreement  
 3 limiting the amount of liability in case of loss or damage beyond which the  
 4 warehouse is not liable. Such a limitation is not effective with respect to the  
 5 warehouse's liability for conversion to its own use. The warehouse's liability, on  
 6 request of the bailor in a record at the time of signing such storage agreement or  
 7 within a reasonable time after receipt of the warehouse receipt, may be increased  
 8 on part or all of the goods covered by the storage agreement or the warehouse  
 9 receipt. In this event, increased rates may be charged based on an increased  
 10 valuation of the goods.

11 (3) Reasonable provisions as to the time and manner of presenting claims and  
 12 commencing actions based on the bailment may be included in the warehouse  
 13 receipt or storage agreement.

14 ➔SECTION 11. KRS 355.7-205 IS REPEALED AND REENACTED TO READ  
 15 AS FOLLOWS:

16 A buyer in the ordinary course of business of fungible goods sold and delivered by a  
 17 warehouse that is also in the business of buying and selling such goods takes the goods  
 18 free of any claim under a warehouse receipt even if the receipt is negotiable and has  
 19 been duly negotiated.

20 ➔SECTION 12. KRS 355.7-206 IS REPEALED AND REENACTED TO READ  
 21 AS FOLLOWS:

22 (1) A warehouse, by giving notice to the person on whose account the goods are held  
 23 and any other person known to claim an interest in the goods, may require  
 24 payment of any charges and removal of the goods from the warehouse at the  
 25 termination of the period of storage fixed by the document of title or, if a period is  
 26 not fixed, within a stated period not less than thirty (30) days after the warehouse  
 27 gives notice. If the goods are not removed before the date specified in the notice,

1 the warehouse may sell them pursuant to Section 16 of this Act.

2 (2) If a warehouse in good faith believes that goods are about to deteriorate or  
 3 decline in value to less than the amount of its lien within the time provided in  
 4 subsection (1) of this section and Section 16 of this Act, the warehouse may  
 5 specify in the notice given under subsection (1) of this section any reasonable  
 6 shorter time for removal of the goods and, if the goods are not removed, may sell  
 7 them at public sale held not less than one (1) week after a single advertisement or  
 8 posting.

9 (3) If, as a result of a quality or condition of the goods of which the warehouse did  
 10 not have notice at the time of deposit, the goods are a hazard to other property,  
 11 the warehouse facilities, or other persons, the warehouse may sell the goods at  
 12 public or private sale without advertisement or posting on reasonable notification  
 13 to all persons known to claim an interest in the goods. If the warehouse, after a  
 14 reasonable effort, is unable to sell the goods, it may dispose of them in any lawful  
 15 manner and does not incur liability by reason of that disposition.

16 (4) A warehouse shall deliver the goods to any person entitled to them under this  
 17 article upon due demand made at any time before sale or other disposition under  
 18 this section.

19 (5) A warehouse may satisfy its lien from the proceeds of any sale or disposition  
 20 under this section but shall hold the balance for delivery on the demand of any  
 21 person to which the warehouse would have been bound to deliver the goods.

22 ➔ SECTION 13. KRS 355.7-207 IS REPEALED AND REENACTED TO READ  
 23 AS FOLLOWS:

24 (1) Unless the warehouse receipt provides otherwise, a warehouse shall keep separate  
 25 the goods covered by each receipt so as to permit at all times identification and  
 26 delivery of those goods. However, different lots of fungible goods may be  
 27 commingled.

1 (2) If different lots of fungible goods are commingled, the goods are owned in  
 2 common by the persons entitled thereto and the warehouse is severally liable to  
 3 each owner for that owner's share. If, because of overissue, a mass of fungible  
 4 goods is insufficient to meet all the receipts the warehouse has issued against it,  
 5 the persons entitled include all holders to which overissued receipts have been  
 6 duly negotiated.

7 ➔SECTION 14. KRS 355.7-208 IS REPEALED AND REENACTED TO READ  
 8 AS FOLLOWS:

9 If a blank in a negotiable tangible warehouse receipt has been filled in without  
 10 authority, a good faith purchaser for value and without notice of the lack of authority  
 11 may treat the insertion as authorized. Any other unauthorized alteration leaves any  
 12 tangible or electronic warehouse receipt enforceable against the issuer according to its  
 13 original tenor.

14 ➔SECTION 15. KRS 355.7-209 IS REPEALED AND REENACTED TO READ  
 15 AS FOLLOWS:

16 (1) A warehouse has a lien against the bailor on the goods covered by a warehouse  
 17 receipt or storage agreement or on the proceeds thereof in its possession for  
 18 charges for storage or transportation, including demurrage and terminal  
 19 charges, insurance, labor, or other charges, present or future, in relation to the  
 20 goods, and for expenses necessary for preservation of the goods or reasonably  
 21 incurred in their sale pursuant to law. If the person on whose account the goods  
 22 are held is liable for similar charges or expenses in relation to other goods  
 23 whenever deposited and it is stated in the warehouse receipt or storage agreement  
 24 that a lien is claimed for charges and expenses in relation to other goods, the  
 25 warehouse also has a lien against the goods covered by the warehouse receipt or  
 26 storage agreement or on the proceeds thereof in its possession for those charges  
 27 and expenses, whether or not the other goods have been delivered by the

1 warehouse. However, as against a person to which a negotiable warehouse  
 2 receipt is duly negotiated, a warehouse's lien is limited to charges in an amount  
 3 or at a rate specified in the warehouse receipt or, if no charges are so specified, to  
 4 a reasonable charge for storage of the specific goods covered by the receipt  
 5 subsequent to the date of the receipt.

6 (2) The warehouse may also reserve a security interest under Article 9 of this chapter  
 7 against the bailor for the maximum amount specified on the receipt for charges  
 8 other than those specified in subsection (1) of this section, such as for money  
 9 advanced and interest. A security interest is governed by Article 9 of this chapter.

10 (3) A warehouse's lien for charges and expenses under subsection (1) of this section  
 11 or a security interest under subsection (2) of this section is also effective against  
 12 any person that so entrusted the bailor with possession of the goods that a pledge  
 13 of them by the bailor to a good faith purchaser for value would have been valid.  
 14 However, the lien or security interest is not effective against a person that before  
 15 issuance of a document of title had a legal interest or a perfected security interest  
 16 in the goods and that did not:

17 (a) Deliver or entrust the goods or any document covering the goods to the  
 18 bailor or the bailor's nominee with actual or apparent authority to ship,  
 19 store, or sell; or with power to obtain delivery under Section 28 of this Act;  
 20 or with power of disposition under Section 28 of this Act, KRS 355.2A-  
 21 304(2), 355.2A-305(2), or 355.9-320 or other statute or rule of law; or

22 (b) Acquiesce in the procurement by the bailor or its nominee of any document.

23 (4) A warehouse's lien on household goods for charges and expenses in relation to  
 24 the goods under subsection (1) of this section is also effective against all persons  
 25 if the depositor was the legal possessor of the goods at the time of deposit. In this  
 26 subsection, "household goods" means furniture, furnishings, or personal effects  
 27 used by the depositor in a dwelling.

1 (5) A warehouse loses its lien on any goods that it voluntarily delivers or  
 2 unjustifiably refuses to deliver.

3 ➔SECTION 16. KRS 355.7-210 IS REPEALED AND REENACTED TO READ  
 4 AS FOLLOWS:

5 (1) Except as otherwise provided in subsection (2) of this section, a warehouse's lien  
 6 may be enforced by public or private sale of the goods, in bulk or in packages, at  
 7 any time or place and on any terms that are commercially reasonable, after  
 8 notifying all persons known to claim an interest in the goods. The notification  
 9 shall include a statement of the amount due, the nature of the proposed sale, and  
 10 the time and place of any public sale. The fact that a better price could have been  
 11 obtained by a sale at a different time or in a different method from that selected  
 12 by the warehouse is not of itself sufficient to establish that the sale was not made  
 13 in a commercially reasonable manner. The warehouse has sold in a  
 14 commercially reasonable manner if the warehouse sells the goods in the usual  
 15 manner in any recognized market therefor, sells at the price current in that  
 16 market at the time of the sale, or has otherwise sold in conformity with  
 17 commercially reasonable practices among dealers in the type of goods sold. A sale  
 18 of more goods than apparently necessary to be offered to ensure satisfaction of  
 19 the obligation is not commercially reasonable, except in cases covered by the  
 20 preceding sentence.

21 (2) A warehouse's lien on goods, other than goods stored by a merchant in the  
 22 course of its business, may be enforced only if the following requirements are  
 23 satisfied:

24 (a) All persons known to claim an interest in the goods shall be notified;

25 (b) The notification shall include an itemized statement of the claim, a  
 26 description of the goods subject to the lien, a demand for payment within a  
 27 specified time not less than ten (10) days after receipt of the notification,

and a conspicuous statement that unless the claim is paid within that time the goods will be advertised for sale and sold by auction at a specified time and place;

(c) The sale shall conform to the terms of the notification;

(d) The sale shall be held at the nearest suitable place to where the goods are held or stored; and

(e) After the expiration of the time given in the notification, an advertisement of the sale shall be published once a week for two (2) weeks consecutively in a newspaper of general circulation where the sale is to be held. The advertisement shall include a description of the goods, the name of the person on whose account the goods are being held, and the time and place of the sale. The sale shall take place at least fifteen (15) days after the first publication. If there is no newspaper of general circulation where the sale is to be held, the advertisement shall be posted at least ten (10) days before the sale in not less than six (6) conspicuous places in the neighborhood of the proposed sale.

(3) Before any sale pursuant to this section, any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable expenses incurred in complying with this section. In that event, the goods may not be sold but shall be retained by the warehouse subject to the terms of the receipt and this article.

(4) A warehouse may buy at any public sale held pursuant to this section.

(5) A purchaser in good faith of goods sold to enforce a warehouse's lien takes the goods free of any rights of persons against which the lien was valid, despite the warehouse's noncompliance with this section.

(6) A warehouse may satisfy its lien from the proceeds of any sale pursuant to this section but shall hold the balance, if any, for delivery on demand to any person to

1 which the warehouse would have been bound to deliver the goods.

2 (7) The rights provided by this section are in addition to all other rights allowed by  
3 law to a creditor against a debtor.

4 (8) If a lien is on goods stored by a merchant in the course of its business, the lien  
5 may be enforced in accordance with subsection (1) or (2) of this section.

6 (9) A warehouse is liable for damages caused by failure to comply with the  
7 requirements for sale under this section and, in case of willful violation, is liable  
8 for conversion.

9 ➔SECTION 17. KRS 355.7-301 IS REPEALED AND REENACTED TO READ  
10 AS FOLLOWS:

11 (1) A consignee of a nonnegotiable bill of lading which has given value in good  
12 faith, or a holder to which a negotiable bill has been duly negotiated, relying  
13 upon the description of the goods in the bill or upon the date shown in the bill,  
14 may recover from the issuer damages caused by the misdating of the bill or the  
15 nonreceipt or misdescription of the goods, except to the extent that the document  
16 of title indicates that the issuer does not know whether any part or all of the  
17 goods in fact were received or conform to the description, such as in a case in  
18 which the description is in terms of marks or labels or kind, quantity, or  
19 condition or the receipt or description is qualified by "contents or condition of  
20 contents of packages unknown," "said to contain," "shipper's weight, load and  
21 count," or words of similar import, if that indication is true.

22 (2) If goods are loaded by the issuer of the bill of lading, the issuer shall count the  
23 packages of goods if shipped in packages and ascertain the kind and quantity if  
24 shipped in bulk and words such as "shipper's weight, load and count," or words  
25 of similar import indicating that the description was made by the shipper are  
26 ineffective except as to goods concealed by packages.

27 (3) If bulk goods are loaded by a shipper that makes available to the issuer of the bill

of lading adequate facilities for weighing those goods, the issuer shall ascertain the kind and quantity within a reasonable time after receiving the shipper's request in a record to do so. In that case, "shipper's weight" or words of similar import are ineffective.

(4) The issuer, by including in the bill of lading the words "shipper's weight, load and count," or words of similar import, may indicate that the goods were loaded by the shipper, and, if that statement is true, the issuer is not liable for damages caused by the improper loading. However, omission of such words does not imply liability for damages caused by improper loading.

(5) A shipper guarantees to the issuer the accuracy at the time of shipment of the description, marks, labels, number, kind, quantity, condition, and weight, as furnished by the shipper, and the shipper shall indemnify the issuer against damage caused by inaccuracies in those particulars. This right of the issuer to that indemnity does not limit its responsibility or liability under the contract of carriage to any person other than the shipper.

➔SECTION 18. KRS 355.7-302 IS REPEALED AND REENACTED TO READ  
AS FOLLOWS:

(1) The issuer of a through bill of lading or other document of title embodying an undertaking to be performed in part by a person acting as its agent or by a performing carrier is liable to any person entitled to recover on the document for any breach by the other person or the performing carrier of its obligation under the document. However, to the extent that the bill covers an undertaking to be performed overseas or in territory not contiguous to the continental United States or an undertaking including matters other than transportation, this liability for breach by the other person or the performing carrier may be varied by agreement of the parties.

(2) If goods covered by a through bill of lading or other document of title embodying

an undertaking to be performed in part by a person other than the issuer are received by that person, the person is subject, with respect to its own performance while the goods are in its possession, to the obligation of the issuer. The person's obligation is discharged by delivery of the goods to another person pursuant to the document and does not include liability for breach by any other person or by the issuer.

(3) The issuer of a through bill of lading or other document of title described in subsection (1) of this section is entitled to recover from the performing carrier, or other person in possession of the goods when the breach of the obligation under the document occurred:

(a) The amount it may be required to pay to any person entitled to recover on the document for the breach, as may be evidenced by any receipt, judgment, or transcript of judgment; and

(b) The amount of any expense reasonably incurred by the issuer in defending any action commenced by any person entitled to recover on the document for the breach.

➔SECTION 19. KRS 355.7-303 IS REPEALED AND REENACTED TO READ  
AS FOLLOWS:

(1) Unless the bill of lading otherwise provides, a carrier may deliver the goods to a person or destination other than that stated in the bill or may otherwise dispose of the goods, without liability for misdelivery, on instructions from:

(a) The holder of a negotiable bill;

(b) The consignor on a nonnegotiable bill even if the consignee has given contrary instructions;

(c) The consignee on a nonnegotiable bill in the absence of contrary instructions from the consignor, if the goods have arrived at the billed destination or if the consignee is in possession of the tangible bill or in

1 control of the electronic bill; or

2 (d) The consignee on a nonnegotiable bill, if the consignee is entitled as against  
 3 the consignor to dispose of the goods.

4 (2) Unless instructions described in subsection (1) of this section are included in a  
 5 negotiable bill of lading, a person to which the bill is duly negotiated may hold  
 6 the bailee according to the original terms.

7 ➔SECTION 20. KRS 355.7-304 IS REPEALED AND REENACTED TO READ  
 8 AS FOLLOWS:

9 (1) Except as customary in international transportation, a tangible bill of lading may  
 10 not be issued in a set of parts. The issuer is liable for damages caused by violation  
 11 of this subsection.

12 (2) If a tangible bill of lading is lawfully issued in a set of parts, each of which  
 13 contains an identification code and is expressed to be valid only if the goods have  
 14 not been delivered against any other part, the whole of the parts constitutes one  
 15 (1) bill.

16 (3) If a tangible negotiable bill of lading is lawfully issued in a set of parts and  
 17 different parts are negotiated to different persons, the title of the holder to which  
 18 the first due negotiation is made prevails as to both the document of title and the  
 19 goods even if any later holder may have received the goods from the carrier in  
 20 good faith and discharged the carrier's obligation by surrendering its part.

21 (4) A person that negotiates or transfers a single part of a tangible bill of lading  
 22 issued in a set is liable to holders of that part as if it were the whole set.

23 (5) The bailee is obliged to deliver in accordance with Part 4 of this article against  
 24 the first presented part of a tangible bill of lading lawfully issued in a set.  
 25 Delivery in this manner discharges the bailee's obligation on the whole bill.

26 ➔SECTION 21. KRS 355.7-305 IS REPEALED AND REENACTED TO READ  
 27 AS FOLLOWS:

(1) Instead of issuing a bill of lading to the consignor at the place of shipment, a carrier, at the request of the consignor, may procure the bill to be issued at destination or at any other place designated in the request.

(2) Upon request of any person entitled as against a carrier to control the goods while in transit and on surrender of possession or control of any outstanding bill of lading or other receipt covering the goods, the issuer, subject to Section 5 of this Act, may procure a substitute bill to be issued at any place designated in the request.

→SECTION 22. KRS 355.7-306 IS REPEALED AND REENACTED TO READ  
AS FOLLOWS:

An unauthorized alteration or filling in of a blank in a bill of lading leaves the bill enforceable according to its original tenor.

→SECTION 23. KRS 355.7-307 IS REPEALED AND REENACTED TO READ  
AS FOLLOWS:

(1) A carrier has a lien on the goods covered by a bill of lading or on the proceeds thereof in its possession for charges after the date of the carrier's receipt of the goods for storage or transportation, including demurrage and terminal charges, and for expenses necessary for preservation of the goods incident to their transportation or reasonably incurred in their sale pursuant to law. However, against a purchaser for value of a negotiable bill of lading, a carrier's lien is limited to charges stated in the bill or the applicable tariffs or, if no charges are stated, a reasonable charge.

(2) A lien for charges and expenses under subsection (1) of this section on goods that the carrier was required by law to receive for transportation is effective against the consignor or any person entitled to the goods unless the carrier had notice that the consignor lacked authority to subject the goods to those charges and expenses. Any other lien under subsection (1) of this section is effective against

1 the consignor and any person that permitted the bailor to have control or  
 2 possession of the goods unless the carrier had notice that the bailor lacked  
 3 authority.

4 (3) A carrier loses its lien on any goods that it voluntarily delivers or unjustifiably  
 5 refuses to deliver.

6 ➔SECTION 24. KRS 355.7-308 IS REPEALED AND REENACTED TO READ  
 7 AS FOLLOWS:

8 (1) A carrier's lien on goods may be enforced by public or private sale of the goods,  
 9 in bulk or in packages, at any time or place and on any terms that are  
 10 commercially reasonable, after notifying all persons known to claim an interest  
 11 in the goods. The notification shall include a statement of the amount due, the  
 12 nature of the proposed sale, and the time and place of any public sale. The fact  
 13 that a better price could have been obtained by a sale at a different time or in a  
 14 different method from that selected by the carrier is not of itself sufficient to  
 15 establish that the sale was not made in a commercially reasonable manner. The  
 16 carrier has sold goods in a commercially reasonable manner if the carrier sells  
 17 the goods in the usual manner in any recognized market therefor, sells at the  
 18 price current in that market at the time of the sale, or has otherwise sold in  
 19 conformity with commercially reasonable practices among dealers in the type of  
 20 goods sold. A sale of more goods than apparently necessary to be offered to  
 21 ensure satisfaction of the obligation is not commercially reasonable, except in  
 22 cases covered by the preceding sentence.

23 (2) Before any sale pursuant to this section, any person claiming a right in the goods  
 24 may pay the amount necessary to satisfy the lien and the reasonable expenses  
 25 incurred in complying with this section. In that event, the goods may not be sold  
 26 but shall be retained by the carrier, subject to the terms of the bill of lading and  
 27 this article.

1 (3) A carrier may buy at any public sale pursuant to this section.

2 (4) A purchaser in good faith of goods sold to enforce a carrier's lien takes the goods  
 3 free of any rights of persons against which the lien was valid, despite the carrier's  
 4 noncompliance with this section.

5 (5) A carrier may satisfy its lien from the proceeds of any sale pursuant to this  
 6 section but shall hold the balance, if any, for delivery on demand to any person to  
 7 which the carrier would have been bound to deliver the goods.

8 (6) The rights provided by this section are in addition to all other rights allowed by  
 9 law to a creditor against a debtor.

10 (7) A carrier's lien may be enforced pursuant to either subsection (1) of this section  
 11 or the procedure set forth in subsection (2) of Section 16 of this Act.

12 (8) A carrier is liable for damages caused by failure to comply with the requirements  
 13 for sale under this section and, in case of willful violation, is liable for  
 14 conversion.

15 ➔SECTION 25. KRS 355.7-309 IS REPEALED AND REENACTED TO READ  
 16 AS FOLLOWS:

17 (1) A carrier that issues a bill of lading, whether negotiable or nonnegotiable, shall  
 18 exercise the degree of care in relation to the goods which a reasonably careful  
 19 person would exercise under similar circumstances. This subsection does not  
 20 affect any statute, regulation, or rule of law that imposes liability upon a common  
 21 carrier for damages not caused by its negligence.

22 (2) Damages may be limited by a term in the bill of lading or in a transportation  
 23 agreement that the carrier's liability may not exceed a value stated in the bill or  
 24 transportation agreement if the carrier's rates are dependent upon value and the  
 25 consignor is afforded an opportunity to declare a higher value and the consignor  
 26 is advised of the opportunity. However, such a limitation is not effective with  
 27 respect to the carrier's liability for conversion to its own use.

(3) Reasonable provisions as to the time and manner of presenting claims and commencing actions based on the shipment may be included in a bill of lading or a transportation agreement.

➔SECTION 26. KRS 355.7-401 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The obligations imposed by this article on an issuer apply to a document of title even if:

(1) The document does not comply with the requirements of this article or of any other statute, rule, or regulation regarding its issue, form, or content;

(2) The issuer violated laws regulating the conduct of its business;

(3) The goods covered by the document were owned by the bailee when the document was issued; or

(4) The person issuing the document is not a warehouse but the document purports to be a warehouse receipt.

➔SECTION 27. KRS 355.7-402 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

A duplicate or any other document of title purporting to cover goods already represented by an outstanding document of the same issuer does not confer any right in the goods, except as provided in the case of tangible bills of lading in a set of parts, overissue of documents for fungible goods, substitutes for lost, stolen, or destroyed documents, or substitute documents issued pursuant to Section 5 of this Act. The issuer is liable for damages caused by its overissue or failure to identify a duplicate document by a conspicuous notation.

➔SECTION 28. KRS 355.7-403 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A bailee shall deliver the goods to a person entitled under a document of title if the person complies with subsections (2) and (3) of this section, unless and to the extent that the bailee establishes any of the following:

1 (a) Delivery of the goods to a person whose receipt was rightful as against the  
 2 claimant;

3 (b) Damage to or delay, loss, or destruction of the goods for which the bailee is  
 4 not liable;

5 (c) Previous sale or other disposition of the goods in lawful enforcement of a  
 6 lien or on a warehouse's lawful termination of storage;

7 (d) The exercise by a seller of its right to stop delivery pursuant to Section 53 of  
 8 this Act or by a lessor of its right to stop delivery pursuant to Section 56 of  
 9 this Act;

10 (e) A diversion, reconsignment, or other disposition pursuant to Section 19 of  
 11 this Act;

12 (f) Release, satisfaction, or any other fact affording a personal defense against  
 13 the claimant; or

14 (g) Any other lawful excuse.

15 (2) A person claiming goods covered by a document of title shall satisfy the bailee's  
 16 lien if the bailee so requests or the bailee is prohibited by law from delivering the  
 17 goods until the charges are paid.

18 (3) Unless a person claiming the goods is one against which the document of title  
 19 does not confer a right under subsection (1) of Section 32 of this Act:

20 (a) The person claiming under a document shall surrender possession or  
 21 control of any outstanding negotiable document covering the goods for  
 22 cancellation or indication of partial deliveries; and

23 (b) The bailee shall cancel the document or conspicuously indicate in the  
 24 document the partial delivery or be liable to any person to which the  
 25 document is duly negotiated.

26 ➔SECTION 29. KRS 355.7-404 IS REPEALED AND REENACTED TO READ  
 27 AS FOLLOWS:

A bailee that in good faith has received goods and delivered or otherwise disposed of the goods according to the terms of a document of title or pursuant to this article is not liable for the goods even if:

(1) The person from which the bailee received the goods did not have authority to procure the document or to dispose of the goods; or

(2) The person to which the bailee delivered the goods did not have authority to receive the goods.

→ SECTION 30. KRS 355.7-501 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The following rules apply to a negotiable tangible document of title:

(a) If the document's original terms run to the order of a named person, the document is negotiated by the named person's indorsement and delivery.

After the named person's indorsement in blank or to bearer, any person may negotiate the document by delivery alone;

(b) If the document's original terms run to bearer, it is negotiated by delivery alone;

(c) If the document's original terms run to the order of a named person and it is delivered to the named person, the effect is the same as if the document had been negotiated;

(d) Negotiation of the document after it has been indorsed to a named person requires indorsement by the named person as well as delivery; and

(e) A document is duly negotiated if it is negotiated in the manner stated in this subsection to a holder that purchases it in good faith, without notice of any defense against or claim to it on the part of any person, and for value, unless it is established that the negotiation is not in the regular course of business or financing or involves receiving the document in settlement or payment of a monetary obligation.

**(2) The following rules apply to a negotiable electronic document of title:**

**(a) If the document's original terms run to the order of a named person or to bearer, the document is negotiated by delivery of the document to another person. Indorsement by the named person is not required to negotiate the document.**

**(b) If the document's original terms run to the order of a named person and the named person has control of the document, the effect is the same as if the document had been negotiated.**

**(c) A document is duly negotiated if it is negotiated in the manner stated in this subsection to a holder that purchases it in good faith, without notice of any defense against or claim to it on the part of any person, and for value, unless it is established that the negotiation is not in the regular course of business or financing or involves taking delivery of the document in settlement or payment of a monetary obligation.**

**(3) Indorsement of a nonnegotiable document of title neither makes it negotiable nor adds to the transferee's rights.**

**(4) The naming in a negotiable bill of lading of a person to be notified of the arrival of the goods does not limit the negotiability of the bill or constitute notice to a purchaser of the bill of any interest of that person in the goods.**

→ SECTION 31. KRS 355.7-502 IS REPEALED AND REENACTED TO READ  
AS FOLLOWS:

**(1) Subject to Sections 11 and 32 of this Act, a holder to which a negotiable document of title has been duly negotiated acquires thereby:**

**(a) Title to the document;**

**(b) Title to the goods;**

**(c) All rights accruing under the law of agency or estoppel, including rights to goods delivered to the bailee after the document was issued; and**

(d) The direct obligation of the issuer to hold or deliver the goods according to the terms of the document free of any defense or claim by the issuer except those arising under the terms of the document or under this article. In the case of a delivery order, the bailee's obligation accrues only upon the bailee's acceptance of the delivery order and the obligation acquired by the holder is that the issuer and any indorser will procure the acceptance of the bailee.

(2) Subject to Section 32 of this Act, title and rights acquired by due negotiation are not defeated by any stoppage of the goods represented by the document of title or by surrender of the goods by the bailee and are not impaired even if:

(a) The due negotiation or any prior due negotiation constituted a breach of duty;

(b) Any person has been deprived of possession of a negotiable tangible document or control of a negotiable electronic document by misrepresentation, fraud, accident, mistake, duress, loss, theft, or conversion; or

(c) A previous sale or other transfer of the goods or document has been made to a third person.

➔SECTION 32. KRS 355.7-503 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A document of title confers no right in goods against a person that before issuance of the document had a legal interest or a perfected security interest in the goods and that did not:

(a) Deliver or entrust the goods or any document covering the goods to the bailor or the bailor's nominee with actual or apparent authority to ship, store, or sell; with power to obtain delivery under Section 28 of this Act; or with power of disposition under KRS 355.2-403, 355.2A-304(2), 355.2A-

1           305(2), or 355.9-320 or other statute or rule of law; or

2           (b) Acquiesce in the procurement by the bailor or its nominee of any document.

3       (2) Title to goods based upon an unaccepted delivery order is subject to the rights of  
 4           any person to which a negotiable warehouse receipt or bill of lading covering the  
 5           goods has been duly negotiated. That title may be defeated under Section 33 of  
 6           this Act to the same extent as the rights of the issuer or a transferee from the  
 7           issuer.

8       (3) Title to goods based upon a bill of lading issued to a freight forwarder is subject  
 9           to the rights of any person to which a bill issued by the freight forwarder is duly  
 10           negotiated. However, delivery by the carrier in accordance with Part 4 of this  
 11           article pursuant to its own bill of lading discharges the carrier's obligation to  
 12           deliver.

13       ➔SECTION 33. KRS 355.7-504 IS REPEALED AND REENACTED TO READ  
 14 AS FOLLOWS:

15       (1) A transferee of a document of title, whether negotiable or nonnegotiable, to  
 16           which the document has been delivered but not duly negotiated, acquires the title  
 17           and rights that its transferor had or had actual authority to convey.

18       (2) In the case of a nonnegotiable document of title, until but not after the bailee  
 19           receives notice of the transfer, the rights of the transferee may be defeated:

20           (a) By those creditors of the transferor that could treat the transfer as void  
 21           under KRS 355.2-402 or 355.2A-308;

22           (b) By a buyer from the transferor in ordinary course of business if the bailee  
 23           has delivered the goods to the buyer or received notification of the buyer's  
 24           rights;

25           (c) By a lessee from the transferor in ordinary course of business if the bailee  
 26           has delivered the goods to the lessee or received notification of the lessee's  
 27           rights; or

1        (d) As against the bailee, by good faith dealings of the bailee with the  
 2        transferor.

3        (3) A diversion or other change of shipping instructions by the consignor in a  
 4        nonnegotiable bill of lading which causes the bailee not to deliver the goods to  
 5        the consignee defeats the consignee's title to the goods if the goods have been  
 6        delivered to a buyer in ordinary course of business or a lessee in ordinary course  
 7        of business and in any event defeats the consignee's rights against the bailee.

8        (4) Delivery of the goods pursuant to a nonnegotiable document of title may be  
 9        stopped by a seller under Section 53 of this Act or a lessor under Section 56 of  
 10       this Act, subject to the requirements of due notification in those sections. A bailee  
 11       honoring the seller's or lessor's instructions is entitled to be indemnified by the  
 12       seller or lessor against any resulting loss or expense.

13       ➔ SECTION 34. KRS 355.7-505 IS REPEALED AND REENACTED TO READ  
 14 AS FOLLOWS:

15       The indorsement of a tangible document of title issued by a bailee does not make the  
 16       indorser liable for any default by the bailee or previous indorsers.

17       ➔ SECTION 35. KRS 355.7-506 IS REPEALED AND REENACTED TO READ  
 18 AS FOLLOWS:

19       The transferee of a negotiable tangible document of title has a specifically enforceable  
 20       right to have its transferor supply any necessary indorsement, but the transfer becomes  
 21       a negotiation only as of the time the indorsement is supplied.

22       ➔ SECTION 36. KRS 355.7-507 IS REPEALED AND REENACTED TO READ  
 23 AS FOLLOWS:

24       If a person negotiates or delivers a document of title for value, otherwise than as a  
 25       mere intermediary under Section 37 of this Act, unless otherwise agreed, the transferor  
 26       warrants to its immediate purchaser only in addition to any warranty made in selling  
 27       or leasing the goods that:

1 (1) The document is genuine;

2 (2) The transferor does not have knowledge of any fact that would impair the  
3 document's validity or worth; and

4 (3) The negotiation or delivery is rightful and fully effective with respect to the title to  
5 the document and the goods it represents.

6 ➔SECTION 37. KRS 355.7-508 IS REPEALED AND REENACTED TO READ  
7 AS FOLLOWS:

8 A collecting bank or other intermediary known to be entrusted with documents of title  
9 on behalf of another or with collection of a draft or other claim against delivery of  
10 documents warrants by the delivery of the documents only its own good faith and  
11 authority even if the collecting bank or other intermediary has purchased or made  
12 advances against the claim or draft to be collected.

13 ➔SECTION 38. KRS 355.7-509 IS REPEALED AND REENACTED TO READ  
14 AS FOLLOWS:

15 Whether a document of title is adequate to fulfill the obligations of a contract for sale,  
16 a contract for lease, or the conditions of a letter of credit is determined by Article 2, 2A,  
17 or 5 of this chapter.

18 ➔SECTION 39. KRS 355.7-601 IS REPEALED AND REENACTED TO READ  
19 AS FOLLOWS:

20 (1) If a document of title is lost, stolen, or destroyed, a court may order delivery of the  
21 goods or issuance of a substitute document and the bailee may without liability to  
22 any person comply with the order. If the document was negotiable, a court shall  
23 not order delivery of the goods or issuance of a substitute document without the  
24 claimant's posting security unless it finds that any person that may suffer loss as  
25 a result of nonsurrender of possession or control of the document is adequately  
26 protected against the loss. If the document was nonnegotiable, the court may  
27 require security. The court may also order payment of the bailee's reasonable

costs and attorney's fees in any action under this subsection.

(2) A bailee that without court order delivers goods to a person claiming under a missing negotiable document of title is liable to any person injured thereby. If the delivery is not in good faith, the bailee is liable for conversion. Delivery in good faith is not conversion if the claimant posts security with the bailee in an amount at least double the value of the goods at the time of posting to indemnify any person injured by the delivery which files a notice of claim within one (1) year after the delivery.

➔SECTION 40. KRS 355.7-602 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Unless a document of title was originally issued upon delivery of the goods by a person that did not have power to dispose of them, a lien does not attach by virtue of any judicial process to goods in the possession of a bailee for which a negotiable document of title is outstanding unless possession or control of the document is first surrendered to the bailee or the document's negotiation is enjoined. The bailee may not be compelled to deliver the goods pursuant to process until possession or control of the document is surrendered to the bailee or to the court. A purchaser of the document for value without notice of the process or injunction takes free of the lien imposed by judicial process.

➔SECTION 41. KRS 355.7-603 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

If more than one (1) person claims title to or possession of the goods, the bailee is excused from delivery until the bailee has a reasonable time to ascertain the validity of the adverse claims or to commence an action for interpleader. The bailee may assert an interpleader either in defending an action for nondelivery of the goods or by original action.

➔SECTION 42. A NEW SECTION OF ARTICLE 7 OF KRS CHAPTER 355 IS

1 CREATED TO READ AS FOLLOWS:

2 *This article, as effective on the effective date of this Act:*

3 *(1) Applies to a document of title that is issued or a bailment that arises on or after*  
 4 *the effective date of this Act;*

5 *(2) Does not apply to a document of title that is issued or a bailment that arises*  
 6 *before the effective date of this Act even if the document of title or bailment*  
 7 *would be subject to this article, as effective on the effective date of this Act, if the*  
 8 *document of title had been issued or bailment had arisen after the effective date*  
 9 *of this Act; and*

10 *(3) Does not apply to a right of action that has accrued before the effective date of*  
 11 *this Act.*

12 ➔SECTION 43. A NEW SECTION OF ARTICLE 7 OF KRS CHAPTER 355 IS  
 13 CREATED TO READ AS FOLLOWS:

14 *A document of title issued or a bailment that arises before the effective date of this Act*  
 15 *and the rights, obligations, and interests flowing from that document or bailment are*  
 16 *governed by any statute or other rule amended or repealed by this Act as if amendment*  
 17 *or repeal had not occurred and may be terminated, completed, consummated, or*  
 18 *enforced under that statute or other rule.*

19 ➔Section 44. KRS 355.1-201 is amended to read as follows:

20 (1) Unless the context otherwise requires, words or phrases defined in this section, or in  
 21 the additional definitions contained in other articles of the Uniform Commercial  
 22 Code that apply to particular articles or parts thereof, have the meanings stated.

23 (2) Subject to definitions contained in other articles of the Uniform Commercial Code  
 24 that apply to particular articles or parts thereof:

25 (a) "Action," in the sense of a judicial proceeding, includes recoupment,  
 26 counterclaim, set-off, suit in equity, and any other proceeding in which rights  
 27 are determined;

- 1 (b) "Aggrieved party" means a party entitled to pursue a remedy;
- 2 (c) "Agreement," as distinguished from "contract," means the bargain of the  
3 parties in fact, as found in their language or inferred from other circumstances,  
4 including course of performance, course of dealing, or usage of trade as  
5 provided in KRS 355.1-303;
- 6 (d) "Bank" means a person engaged in the business of banking and includes a  
7 savings bank, savings and loan association, credit union, and trust company;
- 8 (e) "Bearer" means a person in control of a negotiable electronic document of  
9 title or a person in possession of a negotiable instrument, a negotiable  
10 tangible document of title, or certificated security that is payable to bearer or  
11 indorsed in blank;
- 12 (f) "Bill of lading" means a document of title evidencing the receipt of goods for  
13 shipment issued by a person engaged in the business of directly or indirectly  
14 transporting or forwarding goods. The term does not include a warehouse  
15 receipt;
- 16 (g) "Branch" includes a separately incorporated foreign branch of a bank;
- 17 (h) "Burden of establishing" a fact means the burden of persuading the trier of  
18 fact that the existence of the fact is more probable than its nonexistence;
- 19 (i) "Buyer in ordinary course of business" means a person that buys goods in  
20 good faith, without knowledge that the sale violates the rights of another  
21 person in the goods, and in the ordinary course from a person, other than a  
22 pawnbroker, in the business of selling goods of that kind. A person buys  
23 goods in the ordinary course if the sale to the person comports with the usual  
24 or customary practices in the kind of business in which the seller is engaged or  
25 with the seller's own usual or customary practices. A person that sells oil, gas,  
26 or other minerals at the wellhead or minehead is a person in the business of  
27 selling goods of that kind. A buyer in ordinary course of business may buy for

1 cash, by exchange of other property, or on secured or unsecured credit, and  
 2 may acquire goods or documents of title under a preexisting contract for sale.  
 3 Only a buyer that takes possession of the goods or has a right to recover the  
 4 goods from the seller under Article 2 of this chapter may be a buyer in  
 5 ordinary course of business. "Buyer in ordinary course of business" does not  
 6 include a person that acquires goods in a transfer in bulk or as security for or  
 7 in total or partial satisfaction of a money debt;

8 (j) "Conspicuous," with reference to a term, means so written, displayed, or  
 9 presented that a reasonable person against which it is to operate ought to have  
 10 noticed it. Whether a term is "conspicuous" or not is a decision for the court.

11 Conspicuous terms include the following:

- 12 1. A heading in capitals equal to or greater in size than the surrounding  
 13 text, or in contrasting type, font, or color to the surrounding text of the  
 14 same or lesser size; and
- 15 2. Language in the body of a record or display in larger type than the  
 16 surrounding text, or in contrasting type, font, or color to the surrounding  
 17 text of the same size, or set off from surrounding text of the same size  
 18 by symbols or other marks that call attention to the language;

19 (k) "Consumer" means an individual who enters into a transaction primarily for  
 20 personal, family, or household purposes;

21 (l) "Contract," as distinguished from "agreement," means the total legal  
 22 obligation that results from the parties' agreement as determined by the  
 23 Uniform Commercial Code as supplemented by any other applicable laws;

24 (m) "Creditor" includes a general creditor, a secured creditor, a lien creditor, and  
 25 any representative of creditors, including an assignee for the benefit of  
 26 creditors, a trustee in bankruptcy, a receiver in equity, and an executor or  
 27 administrator of an insolvent debtor's or assignor's estate;

(n) "Defendant" includes a person in the position of defendant in a counterclaim, cross-claim, or third-party claim;

(o) "Delivery," with respect to an electronic document of title means voluntary transfer of control and with respect to an instrument, document of title, or chattel paper, means voluntary transfer of possession;

(p) "Document of title" means a record that:

1. In the regular course of business or financing is treated as adequately evidencing that the person in possession or control of the record is entitled to receive, control, hold, and dispose of the record and the goods the record covers; and

2. Purports to be issued by or addressed to a bailee and to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

The term includes a bill of lading, transport document, dock warrant, dock receipt, warehouse receipt and order for delivery of goods. An electronic document of title is evidenced by a record consisting of information stored in an electronic medium. A tangible document of title is evidenced by a record consisting of information that is inscribed on a tangible medium~~[includes bill of lading, dock warrant, dock receipt, warehouse receipt~~

~~or order for the delivery of goods, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold, and dispose of the document and the goods it covers. To be a document of title, a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass];~~

(q) "Fault" means a default, breach, or wrongful act or omission;

- 1 (r) "Fungible goods" means:
- 2 1. Goods of which any unit, by nature or usage of trade, is the equivalent of
- 3 any other like unit; or
- 4 2. Goods that by agreement are treated as equivalent;
- 5 (s) "Genuine" means free of forgery or counterfeiting;
- 6 (t) "Good faith," except as otherwise provided in Article 5 of this chapter, means
- 7 honesty in fact and the observance of reasonable commercial standards of fair
- 8 dealing;
- 9 (u) "Holder" means:
- 10 1. The person in possession of a negotiable instrument that is payable
- 11 either to bearer or to an identified person that is the person in
- 12 possession; ~~or~~
- 13 2. The person in possession of a document of title if the goods are
- 14 deliverable either to bearer or to the order of the person in possession;
- 15 or
- 16 3. A person in control of a negotiable electronic document of title;
- 17 (v) "Insolvency proceeding" includes an assignment for the benefit of creditors or
- 18 other proceeding intended to liquidate or rehabilitate the estate of the person
- 19 involved;
- 20 (w) "Insolvent" means:
- 21 1. Having generally ceased to pay debts in the ordinary course of business
- 22 other than as a result of bona fide dispute;
- 23 2. Being unable to pay debts as they become due; or
- 24 3. Being insolvent within the meaning of federal bankruptcy law;
- 25 (x) "Money" means a medium of exchange currently authorized or adopted by a
- 26 domestic or foreign government. The term includes a monetary unit of
- 27 account established by an intergovernmental organization or by agreement

- 1           between two (2) or more countries;
- 2       (y) "Organization" means a person other than an individual;
- 3       (z) "Party," as distinguished from "third party," means a person that has engaged in
- 4           a transaction or made an agreement subject to the Uniform Commercial Code;
- 5       (aa) "Person" means an individual, corporation, business trust, estate, trust,
- 6           partnership, limited liability company, association, joint venture, government,
- 7           governmental subdivision, agency, or instrumentality, public corporation, or
- 8           any other legal or commercial entity;
- 9       (ab) "Present value" means the amount as of a date certain of one (1) or more sums
- 10           payable in the future, discounted to the date certain by use of either an interest
- 11           rate specified by the parties if that rate is not manifestly unreasonable at the
- 12           time the transaction is entered into or, if an interest rate is not so specified, a
- 13           commercially reasonable rate that takes into account the facts and
- 14           circumstances at the time the transaction is entered into;
- 15       (ac) "Purchase" means taking by sale, lease, discount, negotiation, mortgage,
- 16           pledge, lien, security interest, issue or reissue, gift, or any other voluntary
- 17           transaction creating an interest in property;
- 18       (ad) "Purchaser" means a person that takes by purchase;
- 19       (ae) "Record" means information that is inscribed on a tangible medium or that is
- 20           stored in an electronic or other medium and is retrievable in perceivable form;
- 21       (af) "Remedy" means any remedial right to which an aggrieved party is entitled
- 22           with or without resort to a tribunal;
- 23       (ag) "Representative" means a person empowered to act for another, including an
- 24           agent, an officer of a corporation or association, and a trustee, executor, or
- 25           administrator of an estate;
- 26       (ah) "Right" includes remedy;
- 27       (ai) "Security interest" means an interest in personal property or fixtures which

1 secures payment or performance of an obligation. "Security interest" includes  
 2 any interest of a consignor and a buyer of accounts, chattel paper, a payment  
 3 intangible, or a promissory note in a transaction that is subject to Article 9 of  
 4 this chapter. "Security interest" does not include the special property interest  
 5 of a buyer of goods on identification of those goods to a contract for sale  
 6 under KRS 355.2-401, but a buyer may also acquire a "security interest" by  
 7 complying with Article 9 of this chapter. Except as otherwise provided in  
 8 KRS 355.2-505, the right of a seller or lessor of goods under Article 2 or 2A  
 9 of this chapter to retain or acquire possession of the goods is not a "security  
 10 interest," but a seller or lessor may also acquire a "security interest" by  
 11 complying with Article 9 of this chapter. The retention or reservation of title  
 12 by a seller of goods notwithstanding shipment or delivery to the buyer under  
 13 KRS 355.2-401 is limited in effect to a reservation of a "security interest."  
 14 Whether a transaction in the form of a lease creates a "security interest" is  
 15 determined pursuant to KRS 355.1-203;

16 (aj) "Send" in connection with a writing, record, or notice means:

- 17 1. To deposit in the mail or deliver for transmission by any other usual  
 18 means of communication with postage or cost of transmission provided  
 19 for and properly addressed and, in the case of an instrument, to an  
 20 address specified thereon or otherwise agreed, or if there be none to any  
 21 address reasonable under the circumstances; or
- 22 2. In any other way to cause to be received any record or notice within the  
 23 time it would have arrived if properly sent;

24 (ak) "Signed" includes using any symbol executed or adopted with present  
 25 intention to adopt or accept a writing;

26 (al) "State" means a State of the United States, the District of Columbia, Puerto  
 27 Rico, the United States Virgin Islands, or any territory or insular possession

- 1 subject to the jurisdiction of the United States;
- 2 (am) "Surety" includes a guarantor or other secondary obligor;
- 3 (an) "Term" means a portion of an agreement that relates to a particular matter;
- 4 (ao) "Unauthorized signature" means a signature made without actual, implied, or
- 5 apparent authority. The term includes a forgery;
- 6 (ap) "Warehouse receipt" means a document of title~~[receipt]~~ issued by a person
- 7 engaged in the business of storing goods for hire; and
- 8 (aq) "Writing" includes printing, typewriting, or any other intentional reduction to
- 9 tangible form. "Written" has a corresponding meaning.

10 ➔Section 45. KRS 355.2-103 is amended to read as follows:

- 11 (1) In this article unless the context otherwise requires:
- 12 (a) "Buyer" means a person who buys or contracts to buy goods;
- 13 (b) (Reserved)
- 14 (c) "Receipt" of goods means taking physical possession of them; and
- 15 (d) "Seller" means a person who sells or contracts to sell goods.
- 16 (2) Other definitions applying to this article or to specified parts thereof, and the
- 17 sections in which they appear are:
- 18 (a) "Acceptance." KRS 355.2-606;
- 19 (b) "Banker's credit." KRS 355.2-325;
- 20 (c) "Between merchants." KRS 355.2-104;
- 21 (d) "Cancellation." KRS 355.2-106 (4);
- 22 (e) "Commercial unit." KRS 355.2-105;
- 23 (f) "Confirmed credit." KRS 355.2-325;
- 24 (g) "Conforming to contract." KRS 355.2-106;
- 25 (h) "Contract for sale." KRS 355.2-106;
- 26 (i) "Cover." KRS 355.2-712;
- 27 (j) "Entrusting." KRS 355.2-403;

- 1 (k) "Financing agency." KRS 355.2-104;
- 2 (l) "Future goods." KRS 355.2-105;
- 3 (m) "Goods." KRS 355.2-105;
- 4 (n) "Identification." KRS 355.2-501;
- 5 (o) "Installment contract." KRS 355.2-612;
- 6 (p) "Letter of credit." KRS 355.2-325;
- 7 (q) "Lot." KRS 355.2-105;
- 8 (r) "Merchant." KRS 355.2-104;
- 9 (s) "Overseas." KRS 355.2-323;
- 10 (t) "Person in position of seller." KRS 355.2-707;
- 11 (u) "Present sale." KRS 355.2-106;
- 12 (v) "Sale." KRS 355.2-106;
- 13 (w) "Sale on approval." KRS 355.2-326;
- 14 (x) "Sale or return." KRS 355.2-326; and
- 15 (y) "Termination." KRS 355.2-106.
- 16 (3) The following definitions in other articles apply to this article:
- 17 (a) "Check." KRS 355.3-104;
- 18 (b) "Consignee." KRS 355.7-102;
- 19 (c) "Consignor." KRS 355.7-102;
- 20 (d) "Consumer goods." KRS 355.9-102;
- 21 (e) **"Control." Section 6 of this Act;**
- 22 **(f)** "Dishonor." KRS 355.3-502; and
- 23 **(g) [(f)]** "Draft." KRS 355.3-104.
- 24 (4) In addition, Article 1 contains general definitions and principles of construction and
- 25 interpretation applicable throughout this article.
- 26 ➔ Section 46. KRS 355.2-104 is amended to read as follows:
- 27 (1) "Merchant" means a person who deals in goods of the kind or otherwise by his

1 occupation holds himself out as having knowledge or skill peculiar to the practices  
 2 or goods involved in the transaction or to whom such knowledge or skill may be  
 3 attributed by his employment of an agent or broker or other intermediary who by his  
 4 occupation holds himself out as having such knowledge or skill.

5 (2) "Financing agency" means a bank, finance company or other person who in the  
 6 ordinary course of business makes advances against goods or documents of title or  
 7 who by arrangement with either the seller or the buyer intervenes in ordinary course  
 8 to make or collect payment due or claimed under the contract for sale, as by  
 9 purchasing or paying the seller's draft or making advances against it or by merely  
 10 taking it for collection whether or not documents of title accompany or are  
 11 associated with the draft. "Financing agency" includes also a bank or other person  
 12 who similarly intervenes between persons who are in the position of seller and  
 13 buyer in respect to the goods (KRS 355.2-707).

14 (3) "Between merchants" means in any transaction with respect to which both parties  
 15 are chargeable with the knowledge or skill of merchants.

16 ➔Section 47. KRS 355.2-310 is amended to read as follows:

17 Unless otherwise agreed:

18 (1) Payment is due at the time and place at which the buyer is to receive the goods even  
 19 though the place of shipment is the place of delivery; and

20 (2) If the seller is authorized to send the goods he may ship them under reservation, and  
 21 may tender the documents of title, but the buyer may inspect the goods after their  
 22 arrival before payment is due unless such inspection is inconsistent with the terms  
 23 of the contract (KRS 355.2-513); and

24 (3) If delivery is authorized and made by way of documents of title otherwise than by  
 25 subsection (2) of this section, then payment is due regardless of where the goods  
 26 are to be received:

27 (a) At the time and place at which the buyer is to receive delivery of the tangible

1 documents; or

2 (b) At the time the buyer is to receive delivery of the electronic documents and  
 3 at the seller's place of business or, if none, the seller's residence [regardless  
 4 of where the goods are to be received]; and

5 (4) Where the seller is required or authorized to ship the goods on credit the credit  
 6 period runs from the time of shipment but postdating the invoice or delaying its  
 7 dispatch will correspondingly delay the starting of the credit period.

8 ➔ Section 48. KRS 355.2-503 is amended to read as follows:

9 (1) Tender of delivery requires that the seller put and hold conforming goods at the  
 10 buyer's disposition and give the buyer any notification reasonably necessary to  
 11 enable him to take delivery. The manner, time and place for tender are determined  
 12 by the agreement and this article, and in particular

13 (a) tender must be at a reasonable hour, and if it is of goods they must be kept  
 14 available for the period reasonably necessary to enable the buyer to take  
 15 possession; but

16 (b) unless otherwise agreed the buyer must furnish facilities reasonably suited to  
 17 the receipt of the goods.

18 (2) Where the case is within KRS 355.2-504 respecting shipment tender requires that  
 19 the seller comply with its provisions.

20 (3) Where the seller is required to deliver at a particular destination tender requires that  
 21 he comply with subsection (1) and also in any appropriate case tender documents as  
 22 described in subsections (4) and (5) of this section.

23 (4) Where goods are in the possession of a bailee and are to be delivered without being  
 24 moved

25 (a) tender requires that the seller either tender a negotiable document of title  
 26 covering such goods or procure acknowledgement by the bailee of the buyer's  
 27 right to possession of the goods; but

1 (b) tender to the buyer of a nonnegotiable document of title or of a written  
 2 direction to the bailee to deliver is sufficient tender unless the buyer  
 3 seasonably objects, and receipt by the bailee of notification of the buyer's  
 4 rights fixes those rights as against the bailee and all third persons; but risk of  
 5 loss of the goods and of any failure by the bailee to honor the nonnegotiable  
 6 document of title or to obey the direction remains on the seller until the buyer  
 7 has had a reasonable time to present the document or direction, and a refusal  
 8 by the bailee to honor the document or to obey the direction defeats the tender.

9 (5) Where the contract requires the seller to deliver documents

10 (a) he must tender all such documents in correct form, except as provided in this  
 11 article with respect to bills of lading in a set (subsection (2) of KRS 355.2-  
 12 323); and

13 (b) tender through customary banking channels is sufficient and dishonor of a  
 14 draft accompanying or associated with the documents constitutes  
 15 nonacceptance or rejection.

16 ➔Section 49. KRS 355.2-505 is amended to read as follows:

17 (1) Where the seller has identified goods to the contract by or before shipment:

18 (a) His procurement of a negotiable bill of lading to his own order or otherwise  
 19 reserves in him a security interest in the goods. His procurement of the bill to  
 20 the order of a financing agency or of the buyer indicates in addition only the  
 21 seller's expectation of transferring that interest to the person named.

22 (b) A nonnegotiable bill of lading to himself or his nominee reserves possession  
 23 of the goods as security but except in a case of conditional delivery  
 24 (subsection (2) of KRS 355.2-507) a nonnegotiable bill of lading naming the  
 25 buyer as consignee reserves no security interest even though the seller retains  
 26 possession or control of the bill of lading.

27 (2) When shipment by the seller with reservation of a security interest is in violation of

the contract for sale it constitutes an improper contract for transportation within KRS 355.2-504 but impairs neither the rights given to the buyer by shipment and identification of the goods to the contract nor the seller's powers as a holder of a negotiable document.

➔Section 50. KRS 355.2-506 is amended to read as follows:

(1) A financing agency by paying or purchasing for value a draft which relates to a shipment of goods acquires to the extent of the payment or purchase and in addition to its own rights under the draft and any document of title securing it any rights of the shipper in the goods including the right to stop delivery and the shipper's right to have the draft honored by the buyer.

(2) The right to reimbursement of a financing agency which has in good faith honored or purchased the draft under commitment to or authority from the buyer is not impaired by subsequent discovery of defects with reference to any relevant document which was apparently regular~~[on its face]~~.

➔Section 51. KRS 355.2-509 is amended to read as follows:

(1) Where the contract requires or authorizes the seller to ship the goods by carrier

(a) if it does not require him to deliver them at a particular destination, the risk of loss passes to the buyer when the goods are duly delivered to the carrier even though the shipment is under reservation (KRS 355.2-505); but

(b) if it does require him to deliver them at a particular destination and the goods are there duly tendered while in the possession of the carrier, the risk of loss passes to the buyer when the goods are there duly so tendered as to enable the buyer to take delivery.

(2) Where the goods are held by a bailee to be delivered without being moved, the risk of loss passes to the buyer;

(a) On the buyer's~~[his]~~ receipt of possession or control of a negotiable document of title covering the goods; or

- 1 (b) On acknowledgement by the bailee of the buyer's right to possession of the  
2 goods; or
- 3 (c) After the buyer's~~his~~ receipt of possession or control of a nonnegotiable  
4 document of title or other written direction to deliver, as provided in  
5 subsection (4)(b) of KRS 355.2-503.

6 (3) In any case not within subsection (1) or (2) of this section, the risk of loss passes to  
7 the buyer on his receipt of the goods if the seller is a merchant; otherwise the risk  
8 passes to the buyer on tender of delivery.

9 (4) The provisions of this section are subject to contrary agreement of the parties and to  
10 the provisions of this article on sale on approval (KRS 355.2-327) and on effect of  
11 breach on risk of loss (KRS 355.2-510).

12 ➔Section 52. KRS 355.2-605 is amended to read as follows:

13 (1) The buyer's failure to state in connection with rejection a particular defect which is  
14 ascertainable by reasonable inspection precludes him from relying on the unstated  
15 defect to justify rejection or to establish breach :

16 (a) Where the seller could have cured it if stated seasonably; or

17 (b) Between merchants when the seller has after rejection made a request in  
18 writing for a full and final written statement of all defects on which the buyer  
19 proposes to rely.

20 (2) A buyer's payment against documents tendered to the buyer made without  
21 reservation of rights precludes recovery of the payment for defects apparent in~~on~~  
22 ~~the face of~~ the documents.

23 ➔Section 53. KRS 355.2-705 is amended to read as follows:

24 (1) The seller may stop delivery of goods in the possession of a carrier or other bailee  
25 when he discovers the buyer to be insolvent (KRS 355.2-702) and may stop delivery  
26 of carload, truckload, planeload or larger shipments of express or freight when the  
27 buyer repudiates or fails to make a payment due before delivery or if for any other

1 reason the seller has a right to withhold or reclaim the goods.

2 (2) As against such buyer the seller may stop delivery until:

3 (a) Receipt of the goods by the buyer; or

4 (b) Acknowledgement to the buyer by any bailee of the goods except a carrier that  
5 the bailee holds the goods for the buyer; or

6 (c) Such acknowledgement to the buyer by a carrier by reshipment or as a  
7 warehouse~~warehouseman~~; or

8 (d) Negotiation to the buyer of any negotiable document of title covering the  
9 goods.

10 (3) (a) To stop delivery the seller must so notify as to enable the bailee by reasonable  
11 diligence to prevent delivery of the goods.

12 (b) After such notification the bailee must hold and deliver the goods according to  
13 the directions of the seller but the seller is liable to the bailee for any ensuing  
14 charges or damages.

15 (c) If a negotiable document of title has been issued for goods the bailee is not  
16 obliged to obey a notification to stop until surrender of possession or control  
17 of the document.

18 (d) A carrier who has issued a nonnegotiable bill of lading is not obliged to obey a  
19 notification to stop received from a person other than the consignor.

20 ➔Section 54. KRS 355.2A-103 is amended to read as follows:

21 (1) In this article unless the context otherwise requires:

22 (a) "Buyer in ordinary course of business" means a person who in good faith and  
23 without knowledge that the sale to him is in violation of the ownership rights  
24 or security interest or leasehold interest of a third party in the goods, buys in  
25 ordinary course from a person in the business of selling goods of that kind but  
26 does not include a pawnbroker. "Buying" may be for cash or by exchange of  
27 other property or on secured or unsecured credit and includes receiving goods

1 or documents of title under a pre-existing contract for sale but does not  
 2 include a transfer in bulk or as security for or in total or partial satisfaction of  
 3 a money debt;

4 (b) "Cancellation" occurs when either party puts an end to the lease contract for  
 5 default by the other party;

6 (c) "Commercial unit" means such a unit of goods as by commercial usage is a  
 7 single whole for purposes of lease and division of which materially impairs its  
 8 character or value on the market or in use. A commercial unit may be a single  
 9 article, as a machine, or a set of articles, as a suite of furniture or a line of  
 10 machinery, or a quantity, as a gross or carload, or any other unit treated in use  
 11 or in the relevant market as a single whole;

12 (d) "Conforming" goods or performance under a lease contract means goods or  
 13 performance that are in accordance with the obligations under the lease  
 14 contract;

15 (e) "Consumer lease" means a lease that a lessor regularly engaged in the business  
 16 of leasing or selling makes to a lessee who is an individual and who takes  
 17 under the lease primarily for a personal, family, or household purpose;

18 (f) "Fault" means wrongful act, omission, breach, or default;

19 (g) "Finance lease" means a lease with respect to which:

- 20 1. The lessor does not select, manufacture, or supply the goods;
- 21 2. The lessor acquires the goods or the right to possession and use of the  
 22 goods in connection with the lease; and
- 23 3. One (1) of the following occurs:
  - 24 a. The lessee receives a copy of the contract by which the lessor  
 25 acquired the goods or the right to possession and use of the goods  
 26 before signing the lease contract;
  - 27 b. The lessee's approval of the contract by which the lessor acquired

1 the goods or the right to possession and use of the goods is a  
2 condition to effectiveness of the lease contract;

3 c. The lessee, before signing the lease contract, receives an accurate  
4 and complete statement designating the promises and warranties,  
5 and any disclaimers of warranties, limitations or modifications of  
6 remedies, or liquidated damages, including those of a third party,  
7 such as the manufacturer of the goods, provided to the lessor by  
8 the person supplying the goods in connection with or as part of the  
9 contract by which the lessor acquired the goods or the right to  
10 possession and use of the goods; or

11 d. If the lease is not a consumer lease, the lessor, before the lessee  
12 signs the lease contract, informs the lessee in writing (a) of the  
13 identity of the person supplying the goods to the lessor, unless the  
14 lessee has selected that person and directed the lessor to acquire  
15 the goods or the right to possession and use of the goods from that  
16 person, (b) that the lessee is entitled under this article to the  
17 promises and warranties, including those of any third party,  
18 provided to the lessor by the person supplying the goods in  
19 connection with or as part of the contract by which the lessor  
20 acquired the goods or the right to possession and use of the goods,  
21 and (c) that the lessee may communicate with the person supplying  
22 the goods to the lessor and receive an accurate and complete  
23 statement of those promises and warranties, including any  
24 disclaimers and limitations of them or of remedies;

25 (h) "Goods" means all things that are movable at the time of identification to the  
26 lease contract, or are fixtures (KRS 355.2A-309), but the term does not  
27 include money, documents, instruments, accounts, chattel paper, general

1 intangibles, or minerals or the like, including oil and gas, before extraction.

2 The term also includes the unborn young of animals;

3 (i) "Installment lease contract" means a lease contract that authorizes or requires  
4 the delivery of goods in separate lots to be separately accepted, even though  
5 the lease contract contains a clause "each delivery is a separate lease" or its  
6 equivalent;

7 (j) "Lease" means a transfer of the right to possession and use of goods for a term  
8 in return for consideration, but a sale, including a sale on approval or a sale or  
9 return, or retention or creation of a security interest is not a lease. Unless the  
10 context clearly indicates otherwise, the term includes a sublease;

11 (k) "Lease agreement" means the bargain, with respect to the lease, of the lessor  
12 and the lessee in fact as found in their language or by implication from other  
13 circumstances including course of dealing or usage of trade or course of  
14 performance as provided in this article. Unless the context clearly indicates  
15 otherwise, the term includes a sublease agreement;

16 (l) "Lease contract" means the total legal obligation that results from the lease  
17 agreement as affected by this article and any other applicable rules of law.  
18 Unless the context clearly indicates otherwise, the term includes a sublease  
19 contract;

20 (m) "Leasehold interest" means the interest of the lessor or the lessee under a lease  
21 contract;

22 (n) "Lessee" means a person who acquires the right to possession and use of  
23 goods under a lease. Unless the context clearly indicates otherwise, the term  
24 includes a sublessee;

25 (o) "Lessee in ordinary course of business" means a person who in good faith and  
26 without knowledge that the lease to him is in violation of the ownership rights  
27 or security interest or leasehold interest of a third party in the goods leases in

1 ordinary course from a person in the business of selling or leasing goods of  
2 that kind but does not include a pawnbroker. "Leasing" may be for cash or by  
3 exchange of other property or on secured or unsecured credit and includes  
4 receiving goods or documents of title under a pre-existing lease contract but  
5 does not include a transfer in bulk or as security for or in total or partial  
6 satisfaction of a money debt;

7 (p) "Lessor" means a person who transfers the right to possession and use of  
8 goods under a lease. Unless the context clearly indicates otherwise, the term  
9 includes a sublessor;

10 (q) "Lessor's residual interest" means the lessor's interest in the goods after  
11 expiration, termination, or cancellation of the lease contract;

12 (r) "Lien" means a charge against or interest in goods to secure payment of a debt  
13 or performance of an obligation, but the term does not include a security  
14 interest;

15 (s) "Lot" means a parcel or a single article that is the subject matter of a separate  
16 lease or delivery, whether or not it is sufficient to perform the lease contract.

17 (t) "Merchant lessee" means a lessee that is a merchant with respect to goods of  
18 the kind subject to the lease;

19 (u) "Present value" means the amount as of a date certain of one (1) or more sums  
20 payable in the future, discounted to the date certain. The discount is  
21 determined by the interest rate specified by the parties if the rate was not  
22 manifestly unreasonable at the time the transaction was entered into;  
23 otherwise, the discount is determined by a commercially reasonable rate that  
24 takes into account the facts and circumstances of each case at the time the  
25 transaction was entered into;

26 (v) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge,  
27 gift, or any other voluntary transaction creating an interest in goods;

- 1       (w) "Sublease" means a lease of goods the right to possession and use of which  
 2       was acquired by the lessor as a lessee under an existing lease;
- 3       (x) "Supplier" means a person from whom a lessor buys or leases goods to be  
 4       leased under a finance lease;
- 5       (y) "Supply contract" means a contract under which a lessor buys or leases goods  
 6       to be leased; and
- 7       (z) "Termination" occurs when either party pursuant to a power created by  
 8       agreement or law puts an end to the lease contract otherwise than for default.
- 9       (2) Other definitions applying to this article and the sections in which they appear are:
- 10      (a) "Accessions." KRS 355.2A-310(1);
- 11      (b) "Construction mortgage." KRS 355.2A-309(1)(d);
- 12      (c) "Encumbrance." KRS 355.2A-309(1)(e);
- 13      (d) "Fixtures." KRS 355.2A-309(1)(a);
- 14      (e) "Fixture filing." KRS 355.2A-309(1)(b); and
- 15      (f) "Purchase money lease." KRS 355.2A-309(1)(c).
- 16      (3) The following definitions in other articles apply to this article:
- 17      (a) "Account." KRS 355.9-102(1)(b);
- 18      (b) "Between merchants." KRS 355.2-104(3);
- 19      (c) "Buyer." KRS 355.2-103(1)(a);
- 20      (d) "Chattel paper." KRS 355.9-102(1)(k);
- 21      (e) "Consumer goods." KRS 355.9-102(1)(w);
- 22      (f) "Document." KRS 355.9-102(1)(ad);
- 23      (g) "Entrusting." KRS 355.2-403(3);
- 24      (h) "General intangible." KRS 355.9-102(1)(ap);
- 25      (i) "Instrument." KRS 355.9-102(1)(au);
- 26      (j) "Merchant." KRS 355.2-104(1);
- 27      (k) "Mortgage." KRS 355.9-102(1)(bc);

1 (l) "Pursuant to commitment." Section 60, subsection (1)(bq) of this Act~~[KRS~~  
 2 ~~355.9-102(1)(bp)]~~;

3 (m) "Receipt." KRS 355.2-103(1)(c);

4 (n) "Sale." KRS 355.2-106(1);

5 (o) "Sale on approval." KRS 355.2-326;

6 (p) "Sale or return." KRS 355.2-326; and

7 (q) "Seller." KRS 355.2-103(1)(d).

8 (4) In addition Article 1 contains general definitions and principles of construction and  
 9 interpretation applicable throughout this article.

10 ➔Section 55. KRS 355.2A-514 is amended to read as follows:

11 (1) In rejecting goods, a lessee's failure to state a particular defect that is ascertainable  
 12 by reasonable inspection precludes the lessee from relying on the defect to justify  
 13 rejection or to establish default:

14 (a) If, stated seasonably, the lessor or the supplier could have cured it (KRS  
 15 355.2A-513); or

16 (b) Between merchants if the lessor or the supplier after rejection has made a  
 17 request in writing for a full and final written statement of all defects on which  
 18 the lessee proposes to rely.

19 (2) A lessee's failure to reserve rights when paying rent or other consideration against  
 20 documents precludes recovering of the payment for defects apparent in~~on the face~~  
 21 ~~of~~ the documents.

22 ➔Section 56. KRS 355.2A-526 is amended to read as follows:

23 (1) A lessor may stop delivery of goods in the possession of a carrier or other bailee if  
 24 the lessor discovers the lessee to be insolvent and may stop delivery of carload,  
 25 truckload, planeload, or larger shipments of express or freight if the lessee  
 26 repudiates or fails to make a payment due before delivery, whether for rent, security  
 27 or otherwise under the lease contract, or for any other reason the lessor has a right to

1 withhold or take possession of the goods.

2 (2) In pursuing its remedies under subsection (1), the lessor may stop delivery until:

3 (a) Receipt of the goods by the lessee;

4 (b) Acknowledgment to the lessee by any bailee of the goods, except a carrier,  
5 that the bailee holds the goods for the lessee; or

6 (c) Such an acknowledgment to the lessee by a carrier via reshipment or as a  
7 warehouse~~warehouseman~~.

8 (3) (a) To stop delivery, a lessor shall so notify as to enable the bailee by reasonable  
9 diligence to prevent delivery of the goods.

10 (b) After notification, the bailee shall hold and deliver the goods according to the  
11 directions of the lessor, but the lessor is liable to the bailee for any ensuing  
12 charges or damages.

13 (c) A carrier who has issued a nonnegotiable bill of lading is not obliged to obey a  
14 notification to stop received from a person other than the consignor.

15 ➔Section 57. KRS 355.4-104 is amended to read as follows:

16 (1) In this article, unless the context otherwise requires:

17 (a) "Account" means any deposit or credit account with a bank, including a  
18 demand, time, savings, passbook, share draft, or like account, other than an  
19 account evidenced by a certificate of deposit;

20 (b) "Afternoon" means the period of a day between noon and midnight;

21 (c) "Banking day" means the part of a day on which a bank is open to the public  
22 for carrying on substantially all of its banking functions;

23 (d) "Clearing house" means an association of banks or other payors regularly  
24 clearing items;

25 (e) "Customer" means a person having an account with a bank or for whom a  
26 bank has agreed to collect items including a bank that maintains an account at  
27 another bank;

- 1 (f) "Documentary draft" means a draft to be presented for acceptance or payment  
 2 if specified documents, certificated securities (KRS 355.8-102) or instructions  
 3 for uncertificated securities (KRS 355.8-102), or other certificates, statements,  
 4 or the like are to be received by the drawee or other payor before acceptance  
 5 or payment of the draft;
- 6 (g) "Draft" means a draft as defined in KRS 355.3-104 or an item, other than an  
 7 instrument, that is an order;
- 8 (h) "Drawee" means a person ordered in a draft to make payment;
- 9 (i) "Item" means an instrument or a promise or order to pay money handled by a  
 10 bank for collection or payment. The term does not include a payment order  
 11 governed by Article 4A of this chapter or a credit or debit card slip;
- 12 (j) "Midnight deadline" with respect to a bank is midnight on its next banking  
 13 day following the banking day on which it receives the relevant item or notice  
 14 or from which the time for taking action commences to run, whichever is  
 15 later;
- 16 (k) "Settle" means to pay in cash, by clearing-house settlement, in a charge or  
 17 credit or by remittance, or otherwise as agreed. A settlement may be either  
 18 provisional or final; and
- 19 (l) "Suspends payments" with respect to a bank means that it has been closed by  
 20 order of the supervisory authorities, that a public officer has been appointed to  
 21 take it over, or that it ceases or refuses to make payments in the ordinary  
 22 course of business.
- 23 (2) Other definitions applying to this article and the sections in which they appear are:
- 24 (a) "Agreement for electronic presentment." KRS 355.4-110;
- 25 (b) "Collecting bank." KRS 355.4-105;
- 26 (c) "Depository bank." KRS 355.4-105;
- 27 (d) "Intermediary bank." KRS 355.4-105;

- 1 (e) "Payor bank." KRS 355.4-105;
- 2 (f) "Presenting bank." KRS 355.4-105; and
- 3 (g) "Presentment notice." KRS 355.4-110.
- 4 (3) The following definitions in other articles apply to this article:
- 5 (a) "Acceptance." KRS 355.3-409;
- 6 (b) "Alteration." KRS 355.3-407;
- 7 (c) "Cashier's check." KRS 355.3-104;
- 8 (d) "Certificate of deposit." KRS 355.3-104;
- 9 (e) "Certified check." KRS 355.3-409;
- 10 (f) "Check." KRS 355.3-104;
- 11 (g) **"Control." Section 6 of this Act;**
- 12 **(h)** "Holder in due course." KRS 355.3-302;
- 13 **(i)**~~{(h)}~~ "Instrument." KRS 355.3-104;
- 14 **(j)**~~{(i)}~~ "Notice of dishonor." KRS 355.3-503;
- 15 **(k)**~~{(j)}~~ "Order." KRS 355.3-103;
- 16 **(l)**~~{(k)}~~ "Ordinary care." KRS 355.3-103;
- 17 **(m)**~~{(l)}~~ "Person entitled to enforce." KRS 355.3-301;
- 18 **(n)**~~{(m)}~~ "Presentment." KRS 355.3-501;
- 19 **(o)**~~{(n)}~~ "Promise." KRS 355.3-103;
- 20 **(p)**~~{(o)}~~ "Prove." KRS 355.3-103;
- 21 **(q)**~~{(p)}~~ "Record." KRS 355.1-201;
- 22 **(r)**~~{(q)}~~ "Remotely created item." KRS 355.3-103;
- 23 **(s)**~~{(r)}~~ "Teller's check." KRS 355.3-104; and
- 24 **(t)**~~{(s)}~~ "Unauthorized signature." KRS 355.3-403.
- 25 (4) In addition, Article 1 of this chapter contains general definitions and principles of
- 26 construction and interpretation applicable throughout this article.
- 27 ➔Section 58. KRS 355.4-210 is amended to read as follows:

1 (1) A collecting bank has a security interest in an item and any accompanying  
2 documents or the proceeds of either:

3 (a) In case of an item deposited in an account, to the extent to which credit given  
4 for the item has been withdrawn or applied;

5 (b) In case of an item for which it has given credit available for withdrawal as of  
6 right, to the extent of the credit given, whether or not the credit is drawn upon  
7 or there is a right of charge-back; or

8 (c) If it makes an advance on or against the item.

9 (2) If credit given for several items received at one (1) time or pursuant to a single  
10 agreement is withdrawn or applied in part, the security interest remains upon all the  
11 items, any accompanying documents or the proceeds of either. For the purpose of  
12 this section, credits first given are first withdrawn.

13 (3) Receipt by a collecting bank of a final settlement for an item is a realization on its  
14 security interest in the item, accompanying documents, and proceeds. So long as the  
15 bank does not receive final settlement for the item or give up possession of the item  
16 or possession or control of the accompanying documents for purposes other than  
17 collection, the security interest continues to that extent and is subject to Article 9 of  
18 this chapter, but:

19 (a) No security agreement is necessary to make the security interest enforceable  
20 (KRS 355.9-203(2)(c)1.); and

21 (b) No filing is required to perfect the security interest; and

22 (c) The security interest has priority over conflicting perfected security interests  
23 in the item, accompanying documents, or proceeds.

24 ➔Section 59. KRS 355.8-103 is amended to read as follows:

25 (1) A share or similar equity interest issued by a corporation, business trust, joint stock  
26 company, or similar entity is a security.

27 (2) An "investment company security" is a security. "Investment company security"

means a share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, an interest in a unit investment trust that is so registered, or a face-amount certificate issued by a face-amount certificate company that is so registered. Investment company security does not include an insurance policy or endowment policy or annuity contract issued by an insurance company.

(3) An interest in a partnership or limited liability company is not a security unless it is dealt in or traded on securities exchanges or in securities markets, its terms expressly provide that it is a security governed by this article, or it is an investment company security. However, an interest in a partnership or limited liability company is a financial asset if it is held in a securities account.

(4) A writing that is a security certificate is governed by this article and not by Article 3 of this chapter, even though it also meets the requirements of that article. However, a negotiable instrument governed by Article 3 of this chapter is a financial asset if it is held in a securities account.

(5) An option or similar obligation issued by a clearing corporation to its participants is not a security, but is a financial asset.

(6) A commodity contract, as defined in KRS 355.9-102(1)(o), is not a security or a financial asset.

**(7) A document of title, as defined in subsection (2)(p) of Section 44 of this Act, is not a financial asset unless KRS 355.8-102(1)(i)3. applies.**

➔ Section 60. KRS 355.9-102 is amended to read as follows:

(1) In this article:

(a) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost;

(b) 1. "Account," except as used in "account for," means a right to payment of a monetary obligation, whether or not earned by performance:

- 1           a. For property that has been or is to be sold, leased, licensed,
- 2           assigned, or otherwise disposed of;
- 3           b. For services rendered or to be rendered;
- 4           c. For a policy of insurance issued or to be issued;
- 5           d. For a secondary obligation incurred or to be incurred;
- 6           e. For energy provided or to be provided;
- 7           f. For the use or hire of a vessel under a charter or other contract;
- 8           g. Arising out of the use of a credit or charge card or information
- 9           contained on or for use with the card; or
- 10          h. As winnings in a lottery or other game of chance operated or
- 11          sponsored by a state, governmental unit of a state, or person
- 12          licensed or authorized to operate the game by a state or
- 13          governmental unit of a state.
- 14          2. The term includes health-care-insurance receivables.
- 15          3. The term does not include:
- 16           a. Rights to payment evidenced by chattel paper or an instrument;
- 17           b. Commercial tort claims;
- 18           c. Deposit accounts;
- 19           d. Investment property;
- 20           e. Letter-of-credit rights or letters of credit; or
- 21           f. Rights to payment for money or funds advanced or sold, other than
- 22           rights arising out of the use of a credit or charge card or
- 23           information contained on or for use with the card;
- 24          (c) "Account debtor" means a person obligated on an account, chattel paper, or
- 25          general intangible. The term does not include persons obligated to pay a
- 26          negotiable instrument, even if the instrument constitutes part of chattel paper;
- 27          (d) "Accounting," except as used in "accounting for," means a record:

- 1           1.    Authenticated by a secured party;
- 2           2.    Indicating the aggregate unpaid secured obligations as of a date not more
- 3                than thirty-five (35) days earlier or thirty-five (35) days later than the
- 4                date of the record; and
- 5           3.    Identifying the components of the obligations in reasonable detail;
- 6    (e)   "Agricultural lien" means an interest in farm products:
- 7           1.    Which secures payment or performance of an obligation for:
- 8                a.    Goods or services furnished in connection with a debtor's farming
- 9                operation; or
- 10              b.    Rent on real property leased by a debtor in connection with its
- 11              farming operation;
- 12           2.    Which is created by statute in favor of a person that:
- 13                a.    In the ordinary course of its business furnished goods or services to
- 14                a debtor in connection with a debtor's farming operation; or
- 15                b.    Leased real property to a debtor in connection with the debtor's
- 16                farming operation; and
- 17           3.    Whose effectiveness does not depend on the person's possession of the
- 18                personal property;
- 19    (f)   "As-extracted collateral" means:
- 20           1.    Oil, gas, or other minerals that are subject to a security interest that:
- 21                a.    Is created by a debtor having an interest in the minerals before
- 22                extraction; and
- 23                b.    Attaches to the minerals as extracted; or
- 24           2.    Accounts arising out of the sale at the wellhead or minehead of oil, gas,
- 25                or other minerals in which the debtor had an interest before extraction;
- 26    (g)   "Authenticate" means:
- 27           1.    To sign; or

2. *With present intent to adopt or accept a record, to attach to or logically associate with the record an electronic sound, symbol, or process*~~[To execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record];~~

(h) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies;

(i) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like;

(j) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. *The term includes another record maintained as an alternative to a certificate of title by the governmental unit that issues certificates of title if a statute permits the security interest in question to be indicated on the record as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral;*

(k) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this paragraph, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term does not include:

1. Charters or other contracts involving the use or hire of a vessel; or
2. Records that evidence a right of payment arising out of the use of a credit or charge card or information contained on or for use with the card.

If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper;

(l) "Collateral" means the property subject to a security interest or agricultural lien. The term includes:

1. Proceeds to which a security interest attaches;
2. Accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and
3. Goods that are the subject of a consignment;

(m) "Commercial tort claim" means a claim arising in tort with respect to which:

1. The claimant is an organization; or
2. The claimant is an individual and the claim:
  - a. Arose in the course of the claimant's business or profession; and
  - b. Does not include damages arising out of personal injury to or the death of an individual;

(n) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer;

(o) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

1. Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

- 1           2.    Traded on a foreign commodity board of trade, exchange, or market, and
- 2                   is carried on the books of a commodity intermediary for a commodity
- 3                   customer;
- 4       (p)   "Commodity customer" means a person for which a commodity intermediary
- 5                   carries a commodity contract on its books;
- 6       (q)   "Commodity intermediary" means a person that:
- 7           1.    Is registered as a futures commission merchant under federal
- 8                   commodities law; or
- 9           2.    In the ordinary course of its business provides clearance or settlement
- 10                  services for a board of trade that has been designated as a contract
- 11                  market pursuant to federal commodities law;
- 12       (r)   "Communicate" means:
- 13           1.    To send a written or other tangible record;
- 14           2.    To transmit a record by any means agreed upon by the persons sending
- 15                  and receiving the record; or
- 16           3.    In the case of transmission of a record to or by a filing office, to transmit
- 17                  a record by any means prescribed by filing-office rule;
- 18       (s)   "Consignee" means a merchant to which goods are delivered in a
- 19                  consignment;
- 20       (t)   "Consignment" means a transaction, regardless of its form, in which a person
- 21                  delivers goods to a merchant for the purpose of sale and:
- 22           1.    The merchant:
- 23                  a.   Deals in goods of that kind under a name other than the name of
- 24                          the person making delivery;
- 25                  b.   Is not an auctioneer; and
- 26                  c.   Is not generally known by its creditors to be substantially engaged
- 27                          in selling the goods of others;

- 1           2.    With respect to each delivery, the aggregate value of the goods is one
- 2                   thousand dollars (\$1,000) or more at the time of delivery;
- 3           3.    The goods are not consumer goods immediately before delivery; and
- 4           4.    The transaction does not create a security interest that secures an
- 5                   obligation;
- 6    (u)   "Consignor" means a person that delivers goods to a consignee in a
- 7                   consignment;
- 8    (v)   "Consumer debtor" means a debtor in a consumer transaction;
- 9    (w)   "Consumer goods" means goods that are used or bought for use primarily for
- 10                  personal, family, or household purposes;
- 11   (x)   "Consumer-goods transaction" means a consumer transaction in which:
- 12                  1.    An individual incurs an obligation primarily for personal, family, or
- 13                          household purposes; and
- 14                  2.    A security interest in consumer goods secures the obligation;
- 15   (y)   "Consumer obligor" means an obligor who is an individual and who incurred
- 16                  the obligation as part of a transaction entered into primarily for personal,
- 17                  family, or household purposes;
- 18   (z)   "Consumer transaction" means a transaction in which:
- 19                  1.    An individual incurs an obligation primarily for personal, family, or
- 20                          household purposes;
- 21                  2.    A security interest secures the obligation; and
- 22                  3.    The collateral is held or acquired primarily for personal, family, or
- 23                          household purposes.
- 24           The term includes consumer-goods transactions;
- 25   (aa)   "Continuation statement" means an amendment of a financing statement
- 26                  which:
- 27                  1.    Identifies, by its file number, the initial financing statement to which it

1 relates; and

2 2. Indicates that it is a continuation statement for, or that it is filed to  
3 continue the effectiveness of, the identified financing statement;

4 (ab) "Debtor" means:

5 1. A person having an interest, other than a security interest or other lien, in  
6 the collateral, whether or not the person is an obligor;

7 2. A seller of accounts, chattel paper, payment intangibles, or promissory  
8 notes; or

9 3. A consignee;

10 (ac) "Deposit account" means a demand, time, savings, passbook, or similar  
11 account maintained with a bank. The term does not include investment  
12 property or accounts evidenced by an instrument;

13 (ad) "Document" means a document of title or a receipt of the type described in  
14 KRS 355.7-201(2);

15 (ae) "Electronic chattel paper" means chattel paper evidenced by a record or  
16 records consisting of information stored in an electronic medium;

17 (af) "Encumbrance" means a right, other than an ownership interest, in real  
18 property. The term includes mortgages and other liens on real property;

19 (ag) "Equipment" means goods other than inventory, farm products, or consumer  
20 goods;

21 (ah) "Farm products" means goods, other than standing timber, with respect to  
22 which the debtor is engaged in a farming operation and which are:

23 1. Crops grown, growing, or to be grown, including:

24 a. Crops produced on trees, vines, and bushes; and

25 b. Aquatic goods produced in aquacultural operations;

26 2. Livestock, born or unborn, including aquatic goods produced in  
27 aquacultural operations;

- 1           3.   Supplies used or produced in a farming operation;
- 2           4.   Products of crops or livestock in their unmanufactured states; or
- 3           5.   Equine interests, including, but not limited to, interests in horses, mares,
- 4                 yearlings, foals, weanlings, stallions, syndicated stallions, and stallion
- 5                 shares (including seasons and other rights in connection therewith),
- 6                 whether or not the debtor is engaged in farming operations and without
- 7                 regard to the use thereof. If goods are farm products, they are neither
- 8                 equipment nor inventory;
- 9       (ai) "Farming operation" means raising, cultivating, propagating, fattening,
- 10             grazing, or any other farming, livestock, or aquacultural operation;
- 11       (aj) "File number" means the number assigned to an initial financing statement
- 12             pursuant to KRS 355.9-519(1);
- 13       (ak) "Filing office" means an office designated in KRS 355.9-501 as the place to
- 14             file a financing statement;
- 15       (al) "Filing-office rule" means a rule adopted pursuant to KRS 355.9-526;
- 16       (am) "Financing statement" means a record or records composed of an initial
- 17             financing statement and any filed record relating to the initial financing
- 18             statement;
- 19       (an) "Fixture filing" means the filing of a financing statement covering goods that
- 20             are or are to become fixtures and satisfying KRS 355.9-502(1) and (2). The
- 21             term includes the filing of a financing statement covering goods of a
- 22             transmitting utility which are or are to become fixtures;
- 23       (ao) "Fixtures" means goods that have become so related to particular real property
- 24             that an interest in them arises under real property law;
- 25       (ap) "General intangible" means any personal property, including things in action,
- 26             other than accounts, chattel paper, commercial tort claims, deposit accounts,
- 27             documents, goods, instruments, investment property, letter-of-credit rights,

1 letters of credit, money, and oil, gas, or other minerals before extraction. The  
 2 term includes payment intangibles and software;

3 (aq) (Reserved)

4 (ar) "Goods" means all things that are movable when a security interest attaches.

5 1. The term includes:

- 6 a. Fixtures;
- 7 b. Standing timber that is to be cut and removed under a conveyance  
 8 or contract for sale;
- 9 c. The unborn young of animals;
- 10 d. Crops grown, growing, or to be grown, even if the crops are  
 11 produced on trees, vines, or bushes; and
- 12 e. Manufactured homes.

13 2. The term also includes a computer program embedded in goods and any  
 14 supporting information provided in connection with a transaction  
 15 relating to the program if:

- 16 a. The program is associated with the goods in such a manner that it  
 17 customarily is considered part of the goods; or
- 18 b. By becoming the owner of the goods, a person acquires a right to  
 19 use the program in connection with the goods.

20 3. The term does not include a computer program embedded in goods that  
 21 consist solely of the medium in which the program is embedded.

22 4. The term also does not include accounts, chattel paper, commercial tort  
 23 claims, deposit accounts, documents, general intangibles, instruments,  
 24 investment property, letter-of-credit rights, letters of credit, money, or  
 25 oil, gas, or other minerals before extraction;

26 (as) "Governmental unit" means a subdivision, agency, department, county, parish,  
 27 municipality, or other unit of the government of the United States, a State, or a

1 foreign country. The term includes an organization having a separate  
 2 corporate existence if the organization is eligible to issue debt on which  
 3 interest is exempt from income taxation under the laws of the United States;

4 (at) "Health-care-insurance receivable" means an interest in or claim under a  
 5 policy of insurance which is a right to payment of a monetary obligation for  
 6 health-care goods or services provided or to be provided;

7 (au) "Instrument" means a negotiable instrument or any other writing that  
 8 evidences a right to the payment of a monetary obligation, is not itself a  
 9 security agreement or lease, and is of a type that in ordinary course of business  
 10 is transferred by delivery with any necessary indorsement or assignment. The  
 11 term does not include:

- 12 1. Investment property;
- 13 2. Letters of credit; or
- 14 3. Writings that evidence a right to payment arising out of the use of a  
 15 credit or charge card or information contained on or for use with the  
 16 card;

17 (av) "Inventory" means goods, other than farm products, which:

- 18 1. Are leased by a person as lessor;
- 19 2. Are held by a person for sale or lease or to be furnished under a contract  
 20 of service;
- 21 3. Are furnished by a person under a contract of service; or
- 22 4. Consist of raw materials, work in process, or materials used or  
 23 consumed in a business;

24 (aw) "Investment property" means a security, whether certificated or uncertificated,  
 25 security entitlement, securities account, commodity contract, or commodity  
 26 account;

27 (ax) "Jurisdiction of organization," with respect to a registered organization, means

1 the jurisdiction under whose law the organization is organized;

2 (ay) "Letter-of-credit right" means a right to payment or performance under a letter  
3 of credit, whether or not the beneficiary has demanded or is at the time  
4 entitled to demand payment or performance. The term does not include the  
5 right of a beneficiary to demand payment or performance under a letter of  
6 credit;

7 (az) "Lien creditor" means:

- 8 1. A creditor that has acquired a lien on the property involved by  
9 attachment, levy, or the like;
- 10 2. An assignee for benefit of creditors from the time of assignment;
- 11 3. A trustee in bankruptcy from the date of the filing of the petition; or
- 12 4. A receiver in equity from the time of appointment;

13 (ba) "Manufactured home" means a structure, transportable in one (1) or more  
14 sections, which, in the traveling mode, is eight (8) body feet or more in width  
15 or forty (40) body feet or more in length, or, when erected on site, is three  
16 hundred twenty (320) or more square feet, and which is built on a permanent  
17 chassis and designed to be used as a dwelling with or without a permanent  
18 foundation when connected to the required utilities, and includes the  
19 plumbing, heating, air-conditioning, and electrical systems contained therein.  
20 The term includes any structure that meets all of the requirements of this  
21 paragraph except the size requirements and with respect to which the  
22 manufacturer voluntarily files a certification required by the United States  
23 Secretary of Housing and Urban Development and complies with the  
24 standards established under Title 42 of the United States Code;

25 (bb) "Manufactured-home transaction" means a secured transaction:

- 26 1. That creates a purchase-money security interest in a manufactured home,  
27 other than a manufactured home held as inventory; or

1           2.    In which a manufactured home, other than a manufactured home held as  
2                   inventory, is the primary collateral;

3           (bc) "Mortgage" means a consensual interest in real property, including fixtures,  
4                   which secures payment or performance of an obligation;

5           (bd) "New debtor" means a person that becomes bound as debtor under KRS  
6                   355.9-203(4) by a security agreement previously entered into by another  
7                   person;

8           (be) "New value" means:

9               1.    Money;

10            2.    Money's worth in property, services, or new credit; or

11            3.    Release by a transferee of an interest in property previously transferred  
12                   to the transferee.

13           The term does not include an obligation substituted for another obligation;

14           (bf) "Noncash proceeds" means proceeds other than cash proceeds;

15           (bg) "Obligor" means a person that, with respect to an obligation secured by a  
16                   security interest in or an agricultural lien on the collateral:

17               1.    Owes payment or other performance of the obligation;

18               2.    Has provided property other than the collateral to secure payment or  
19                   other performance of the obligation; or

20               3.    Is otherwise accountable in whole or in part for payment or other  
21                   performance of the obligation.

22           The term does not include issuers or nominated persons under a letter of  
23                   credit;

24           (bh) "Original debtor," except as used in KRS 355.9-310(3), means a person that,  
25                   as debtor, entered into a security agreement to which a new debtor has become  
26                   bound under KRS 355.9-203(4);

27           (bi) "Payment intangible" means a general intangible under which the account

1 debtor's principal obligation is a monetary obligation;

2 (bj) "Person related to," with respect to an individual, means:

- 3 1. The spouse of the individual;
- 4 2. A brother, brother-in-law, sister, or sister-in-law of the individual;
- 5 3. An ancestor or lineal descendant of the individual or the individual's
- 6 spouse; or
- 7 4. Any other relative, by blood or marriage, of the individual or the
- 8 individual's spouse who shares the same home with the individual;

9 (bk) "Person related to," with respect to an organization, means:

- 10 1. A person directly or indirectly controlling, controlled by, or under
- 11 common control with the organization;
- 12 2. An officer or director of, or a person performing similar functions with
- 13 respect to, the organization;
- 14 3. An officer or director of, or a person performing similar functions with
- 15 respect to, a person described in subparagraph 1. of this paragraph;
- 16 4. The spouse of an individual described in subparagraph 1., 2., or 3. of
- 17 this paragraph; or
- 18 5. An individual who is related by blood or marriage to an individual
- 19 described in subparagraph 1., 2., 3., or 4. of this paragraph and shares
- 20 the same home with the individual;

21 (bl) "Proceeds," except as used in KRS 355.9-609(2), means the following

22 property:

- 23 1. Whatever is acquired upon the sale, lease, license, exchange, or other
- 24 disposition of collateral;
- 25 2. Whatever is collected on, or distributed on account of, collateral;
- 26 3. Rights arising out of collateral;
- 27 4. To the extent of the value of collateral, claims arising out of the loss,

1 nonconformity, or interference with the use of, defects or infringement  
2 of rights in, or damage to, the collateral; or

3 5. To the extent of the value of collateral and to the extent payable to the  
4 debtor or the secured party, insurance payable by reason of the loss or  
5 nonconformity of, defects or infringement of rights in, or damage to, the  
6 collateral;

7 (bm) "Promissory note" means an instrument that evidences a promise to pay a  
8 monetary obligation, does not evidence an order to pay, and does not contain  
9 an acknowledgment by a bank that the bank has received for deposit a sum of  
10 money or funds;

11 (bn) "Proposal" means a record authenticated by a secured party which includes the  
12 terms on which the secured party is willing to accept collateral in full or  
13 partial satisfaction of the obligation it secures pursuant to KRS 355.9-620,  
14 355.9-621, and 355.9-622;

15 (bo) "Public-finance transaction" means a secured transaction in connection with  
16 which:

- 17 1. Debt securities are issued;
- 18 2. All or a portion of the securities issued have an initial stated maturity of  
19 at least twenty (20) years; and
- 20 3. The debtor, obligor, secured party, account debtor or other person  
21 obligated on collateral, assignor or assignee of a secured obligation, or  
22 assignor or assignee of a security interest is a state or a governmental  
23 unit of a state;

24 (bp) "Public organic record" means a record that is available to the public for  
25 inspection and that is:

- 26 1. A record consisting of the record initially filed with or issued by a state  
27 or the United States to form or organize an organization and any

record filed with or issued by the state or the United States which amends or restates the initial record;

2. An organic record of a business trust consisting of the record initially filed with a state and any record filed with the state which amends or restates the initial record, if a statute of the state governing business trusts requires that the record be filed with the state; or

3. A record consisting of legislation enacted by the legislature of a state or the Congress of the United States which forms or organizes an organization, any record amending the legislation, and any record filed with or issued by the state or United States which amends or restates the name of the organization;

(bq) "Pursuant to commitment," with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation;

(br){(be)} "Record," except as used in "for record," "of record," "record or legal title," and "record owner," means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form;

(bs){(br)} "Registered organization" means an organization formed or organized solely under the law of a single state or the United States by the filing of a public organic record with, the issuance of a public organic record by, or the enactment of legislation by the state or the United States. The term includes a business trust that is formed or organized under the law of a single state if a statute of the state governing business trusts requires that the business trust's organic record be filed with the state~~and as to which the~~

~~state or the United States must maintain a public record showing the organization to have been organized];~~

(bt)~~{(bs)}~~ "Secondary obligor" means an obligor to the extent that:

1. The obligor's obligation is secondary; or
2. The obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either;

(bu)~~{(bt)}~~ "Secured party" means:

1. A person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;
2. A person that holds an agricultural lien;
3. A consignor;
4. A person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;
5. A trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or
6. A person that holds a security interest arising under KRS 355.2-401, 355.2-505, 355.2-711(3), 355.2A-508(5), 355.4-210, or 355.5-118;

(bv)~~{(bu)}~~ "Security agreement" means an agreement that creates or provides for a security interest;

(bw)~~{(bv)}~~ "Send," in connection with a record or notification, means:

1. To deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or
2. To cause the record or notification to be received within the time that it

1 would have been received if properly sent under subparagraph 1. of this  
2 paragraph;

3 (bx)~~((bw))~~ "Software" means a computer program and any supporting information  
4 provided in connection with a transaction relating to the program. The term  
5 does not include a computer program that is included in the definition of  
6 goods;

7 (by)~~((bx))~~ "State" means a state of the United States, the District of Columbia,  
8 Puerto Rico, the United States Virgin Islands, or any territory or insular  
9 possession subject to the jurisdiction of the United States;

10 (bz)~~((by))~~ "Supporting obligation" means a letter-of-credit right or secondary  
11 obligation that supports the payment or performance of an account, chattel  
12 paper, a document, a general intangible, an instrument, or investment  
13 property;

14 (ca)~~((bz))~~ "Tangible chattel paper" means chattel paper evidenced by a record or  
15 records consisting of information that is inscribed on a tangible medium;

16 (cb)~~((ea))~~ "Termination statement" means an amendment of a financing statement  
17 which:

- 18 1. Identifies, by its file number, the initial financing statement to which it  
19 relates; and
- 20 2. Indicates either that it is a termination statement or that the identified  
21 financing statement is no longer effective; and

22 (cc)~~((eb))~~ "Transmitting utility" means a person primarily engaged in the business  
23 of:

- 24 1. Operating a railroad, subway, street railway, or trolley bus;
- 25 2. Transmitting communications electrically, electromagnetically, or by  
26 light;
- 27 3. Transmitting goods by pipeline or sewer; or

1           4.   Transmitting or producing and transmitting electricity, steam, gas, or  
2                   water.

3   (2)   The following definitions in other articles apply to this article:

- 4           (a)   "Applicant." KRS 355.5-102;
- 5           (b)   "Beneficiary." KRS 355.5-102;
- 6           (c)   "Broker." KRS 355.8-102;
- 7           (d)   "Certificated security." KRS 355.8-102;
- 8           (e)   "Check." KRS 355.3-104;
- 9           (f)   "Clearing corporation." KRS 355.8-102;
- 10          (g)   "Contract for sale." KRS 355.2-106;
- 11          (h)   "Customer." KRS 355.4-104;
- 12          (i)   "Entitlement holder." KRS 355.8-102;
- 13          (j)   "Financial asset." KRS 355.8-102;
- 14          (k)   "Holder in due course." KRS 355.3-302;
- 15          (l)   "Issuer." (with respect to a letter of  
16               credit or letter-of-credit right) KRS 355.5-102;
- 17          (m)   "Issuer." (with respect to a security) KRS 355.8-201;
- 18          (n)   "Lease." KRS 355.2A-103;
- 19          (o)   "Lease agreement." KRS 355.2A-103;
- 20          (p)   "Lease contract." KRS 355.2A-103;
- 21          (q)   "Leasehold interest." KRS 355.2A-103;
- 22          (r)   "Lessee." KRS 355.2A-103;
- 23          (s)   "Lessee in ordinary course of business." KRS 355.2A-103;
- 24          (t)   "Lessor." KRS 355.2A-103;
- 25          (u)   "Lessor's residual interest." KRS 355.2A-103;
- 26          (v)   "Letter of credit." KRS 355.5-102;
- 27          (w)   "Merchant." KRS 355.2-104;

- 1 (x) "Negotiable instrument." KRS 355.3-104;
- 2 (y) "Nominated person." KRS 355.5-102;
- 3 (z) "Note." KRS 355.3-104;
- 4 (aa) "Proceeds of a letter of credit." KRS 355.5-114;
- 5 (ab) "Prove." KRS 355.3-103;
- 6 (ac) "Sale." KRS 355.2-106;
- 7 (ad) "Securities account." KRS 355.8-501;
- 8 (ae) "Securities intermediary." KRS 355.8-102;
- 9 (af) "Security." KRS 355.8-102;
- 10 (ag) "Security certificate." KRS 355.8-102;
- 11 (ah) "Security entitlement." KRS 355.8-102; and
- 12 (ai) "Uncertificated security." KRS 355.8-102.
- 13 (3) Article 1 of this chapter contains general definitions and principles of construction
- 14 and interpretation applicable throughout this article.
- 15 ➔Section 61. KRS 355.9-105 is amended to read as follows:
- 16 (1) A secured party has control of electronic chattel paper if *a system employed for*
- 17 *evidencing the transfer of interests in the chattel paper reliably establishes the*
- 18 *secured party as the person to which the chattel paper was assigned.*
- 19 (2) A system satisfies subsection (1) of this section, and a secured party has control of
- 20 *electronic chattel paper, if* the record or records comprising the chattel paper are
- 21 created, stored, and assigned in such a manner that:
- 22 (a){(1)} A single authoritative copy of the record or records exists which is
- 23 unique, identifiable and, except as otherwise provided in *paragraphs (d), (e),*
- 24 *and (f) of this subsection*~~[subsections (4), (5), and (6) of this section]~~,
- 25 unalterable;
- 26 (b){(2)} The authoritative copy identifies the secured party as the assignee of the
- 27 record or records;

~~(c)~~~~(3)~~ The authoritative copy is communicated to and maintained by the secured party or its designated custodian;

~~(d)~~~~(4)~~ Copies or amendments~~[revisions]~~ that add or change an identified assignee of the authoritative copy can be made only with the consent~~[participation]~~ of the secured party;

~~(e)~~~~(5)~~ Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

~~(f)~~~~(6)~~ Any amendment~~[revision]~~ of the authoritative copy is readily identifiable as~~[an]~~ authorized or unauthorized~~[revision]~~.

➔ Section 62. KRS 355.9-203 is amended to read as follows:

(1) A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.

(2) Except as otherwise provided in subsections (3) to (9) of this section, a security interest is enforceable against the debtor and third parties with respect to the collateral only if:

(a) Value has been given;

(b) The debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and

(c) One (1) of the following conditions is met:

1. The debtor has authenticated a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;

2. The collateral is not a certificated security and is in the possession of the secured party under KRS 355.9-313 pursuant to the debtor's security agreement;

3. The collateral is a certificated security in registered form and the security

1 certificate has been delivered to the secured party under KRS 355.8-301  
 2 pursuant to the debtor's security agreement; or

3 4. The collateral is deposit accounts, electronic chattel paper, investment  
 4 property,~~{or}~~ letter-of-credit rights, or electronic documents, and the  
 5 secured party has control under KRS 355.9-104, 355.9-105, 355.9-106,  
 6 ~~{or}~~ 355.9-107, or Section 6 of this Act pursuant to the debtor's security  
 7 agreement.

8 (3) Subsection (2) of this section is subject to KRS 355.4-210 on the security interest of  
 9 a collecting bank, KRS 355.5-118 on the security interest of a letter-of-credit issuer  
 10 or nominated person, KRS 355.9-110 on a security interest arising under Article 2  
 11 or 2A of this chapter, and KRS 355.9-206 on security interests in investment  
 12 property.

13 (4) A person becomes bound as debtor by a security agreement entered into by another  
 14 person if, by operation of law other than this article or by contract:

15 (a) The security agreement becomes effective to create a security interest in the  
 16 person's property; or

17 (b) The person becomes generally obligated for the obligations of the other  
 18 person, including the obligation secured under the security agreement, and  
 19 acquires or succeeds to all or substantially all of the assets of the other person.

20 (5) If a new debtor becomes bound as debtor by a security agreement entered into by  
 21 another person:

22 (a) The agreement satisfies subsection (2)(c) of this section with respect to  
 23 existing or after-acquired property of the new debtor to the extent the property  
 24 is described in the agreement; and

25 (b) Another agreement is not necessary to make a security interest in the property  
 26 enforceable.

27 (6) The attachment of a security interest in collateral gives the secured party the rights

1 to proceeds provided by KRS 355.9-315 and is also attachment of a security interest  
2 in a supporting obligation for the collateral.

3 (7) The attachment of a security interest in a right to payment or performance secured  
4 by a security interest or other lien on personal or real property is also attachment of  
5 a security interest in the security interest, mortgage, or other lien.

6 (8) The attachment of a security interest in a securities account is also attachment of a  
7 security interest in the security entitlements carried in the securities account.

8 (9) The attachment of a security interest in a commodity account is also attachment of a  
9 security interest in the commodity contracts carried in the commodity account.

10 ➔Section 63. KRS 355.9-207 is amended to read as follows:

11 (1) Except as otherwise provided in subsection (4) of this section, a secured party shall  
12 use reasonable care in the custody and preservation of collateral in the secured  
13 party's possession. In the case of chattel paper or an instrument, reasonable care  
14 includes taking necessary steps to preserve rights against prior parties unless  
15 otherwise agreed.

16 (2) Except as otherwise provided in subsection (4) of this section, if a secured party has  
17 possession of collateral:

18 (a) Reasonable expenses, including the cost of insurance and payment of taxes or  
19 other charges, incurred in the custody, preservation, use, or operation of the  
20 collateral are chargeable to the debtor and are secured by the collateral;

21 (b) The risk of accidental loss or damage is on the debtor to the extent of a  
22 deficiency in any effective insurance coverage;

23 (c) The secured party shall keep the collateral identifiable, but fungible collateral  
24 may be commingled; and

25 (d) The secured party may use or operate the collateral:

26 1. For the purpose of preserving the collateral or its value;

27 2. As permitted by an order of a court having competent jurisdiction; or

1           3. Except in the case of consumer goods, in the manner and to the extent  
2           agreed by the debtor.

3   (3) Except as otherwise provided in subsection (4) of this section, a secured party  
4   having possession of collateral or control of collateral under KRS 355.9-104, 355.9-  
5   105, 355.9-106,~~{or}~~ 355.9-107, or Section 6 of this Act:

6       (a) May hold as additional security any proceeds, except money or funds,  
7       received from the collateral;

8       (b) Shall apply money or funds received from the collateral to reduce the secured  
9       obligation, unless remitted to the debtor; and

10      (c) May create a security interest in the collateral.

11   (4) If the secured party is a buyer of accounts, chattel paper, payment intangibles, or  
12   promissory notes or a consignor:

13      (a) Subsection (1) of this section does not apply unless the secured party is  
14      entitled under an agreement:

15          1. To charge back uncollected collateral; or

16          2. Otherwise to full or limited recourse against the debtor or a secondary  
17          obligor based on the nonpayment or other default of an account debtor  
18          or other obligor on the collateral; and

19      (b) Subsections (2) and (3) of this section do not apply.

20      ➔Section 64. KRS 355.9-208 is amended to read as follows:

21   (1) This section applies to cases in which there is no outstanding secured obligation and  
22   the secured party is not committed to make advances, incur obligations, or  
23   otherwise give value.

24   (2) Within ten (10) days after receiving an authenticated demand by the debtor:

25      (a) A secured party having control of a deposit account under KRS 355.9-  
26      104(1)(b) shall send to the bank with which the deposit account is maintained  
27      an authenticated statement that releases the bank from any further obligation

1 to comply with instructions originated by the secured party;

2 (b) A secured party having control of a deposit account under KRS 355.9-  
3 104(1)(c) shall:

- 4 1. Pay the debtor the balance on deposit in the deposit account; or
- 5 2. Transfer the balance on deposit into a deposit account in the debtor's  
6 name;

7 (c) A secured party, other than a buyer, having control of electronic chattel paper  
8 under KRS 355.9-105 shall:

- 9 1. Communicate the authoritative copy of the electronic chattel paper to the  
10 debtor or its designated custodian;
- 11 2. If the debtor designates a custodian that is the designated custodian with  
12 which the authoritative copy of the electronic chattel paper is maintained  
13 for the secured party, communicate to the custodian an authenticated  
14 record releasing the designated custodian from any further obligation to  
15 comply with instructions originated by the secured party and instructing  
16 the custodian to comply with instructions originated by the debtor; and
- 17 3. Take appropriate action to enable the debtor or its designated custodian  
18 to make copies of or revisions to the authoritative copy which add or  
19 change an identified assignee of the authoritative copy without the  
20 consent of the secured party;

21 (d) A secured party having control of investment property under KRS 355.8-  
22 106(4)(b) or 355.9-106(2) shall send to the securities intermediary or  
23 commodity intermediary with which the security entitlement or commodity  
24 contract is maintained an authenticated record that releases the securities  
25 intermediary or commodity intermediary from any further obligation to  
26 comply with entitlement orders or directions originated by the secured party;{  
27 and}

(e) A secured party having control of a letter-of-credit right under KRS 355.9-107 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party an authenticated release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party; and

(f) A secured party having control of an electronic document shall:

1. Give control of the electronic document to the debtor or its designated custodian;

2. If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic document is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and

3. Take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party.

➔ Section 65. KRS 355.9-301 is amended to read as follows:

Except as otherwise provided in KRS 355.9-303 to 355.9-306, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

(1) Except as otherwise provided in this section, while a debtor is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral.

(2) While collateral is located in a jurisdiction, the local law of that jurisdiction governs

1 perfection, the effect of perfection or nonperfection, and the priority of a possessory  
2 security interest in that collateral.

3 (3) Except as otherwise provided in subsection (4) of this section, while tangible  
4 negotiable documents, goods, instruments, money, or tangible chattel paper is  
5 located in a jurisdiction, the local law of that jurisdiction governs:

- 6 (a) Perfection of a security interest in the goods by filing a fixture filing;
- 7 (b) Perfection of a security interest in timber to be cut; and
- 8 (c) The effect of perfection or nonperfection and the priority of a nonpossessory  
9 security interest in the collateral.

10 (4) The local law of the jurisdiction in which the wellhead or minehead is located  
11 governs perfection, the effect of perfection or nonperfection, and the priority of a  
12 security interest in as-extracted collateral.

13 ➔Section 66. KRS 355.9-307 is amended to read as follows:

14 (1) In this section, "place of business" means a place where a debtor conducts its  
15 affairs.

16 (2) Except as otherwise provided in this section, the following rules determine a  
17 debtor's location:

- 18 (a) A debtor who is an individual is located at the individual's principal residence.
- 19 (b) A debtor that is an organization and has only one (1) place of business is  
20 located at its place of business.
- 21 (c) A debtor that is an organization and has more than one (1) place of business is  
22 located at its chief executive office.

23 (3) Subsection (2) of this section applies only if a debtor's residence, place of business,  
24 or chief executive office, as applicable, is located in a jurisdiction whose law  
25 generally requires information concerning the existence of a nonpossessory security  
26 interest to be made generally available in a filing, recording, or registration system  
27 as a condition or result of the security interest's obtaining priority over the rights of

- 1 a lien creditor with respect to the collateral. If subsection (2) of this section does not  
2 apply, the debtor is located in the District of Columbia.
- 3 (4) A person that ceases to exist, have a residence, or have a place of business  
4 continues to be located in the jurisdiction specified by subsections (2) and (3) of this  
5 section.
- 6 (5) A registered organization that is organized under the law of a state is located in that  
7 state.
- 8 (6) Except as otherwise provided in subsection (9) of this section, a registered  
9 organization that is organized under the law of the United States and a branch or  
10 agency of a bank that is not organized under the law of the United States or a state  
11 are located:
- 12 (a) In the state that the law of the United States designates, if the law designates a  
13 state of location;
- 14 (b) In the state that the registered organization, branch, or agency designates, if  
15 the law of the United States authorizes the registered organization, branch, or  
16 agency to designate its state of location, including by designating its main  
17 office, home office, or other comparable office; or
- 18 (c) In the District of Columbia, if neither paragraph (a) nor paragraph (b) of this  
19 subsection applies.
- 20 (7) A registered organization continues to be located in the jurisdiction specified by  
21 subsection (5) or (6) of this section notwithstanding:
- 22 (a) The suspension, revocation, forfeiture, or lapse of the registered organization's  
23 status as such in its jurisdiction of organization; or
- 24 (b) The dissolution, winding up, or cancellation of the existence of the registered  
25 organization.
- 26 (8) The United States is located in the District of Columbia.
- 27 (9) A branch or agency of a bank that is not organized under the law of the United

1 States or a state is located in the state in which the branch or agency is licensed, if  
 2 all branches and agencies of the bank are licensed in only one (1) state.

3 (10) A foreign air carrier under the Federal Aviation Act of 1958, as amended, is located  
 4 at the designated office of the agent upon which service of process may be made on  
 5 behalf of the carrier.

6 (11) This section applies only for purposes of this part of this article.

7 ➔Section 67. KRS 355.9-310 is amended to read as follows:

8 (1) Except as otherwise provided in subsection (2) of this section and KRS 355.9-  
 9 312(2), a financing statement must be filed to perfect all security interests and  
 10 agricultural liens.

11 (2) The filing of a financing statement is not necessary to perfect a security interest:

12 (a) That is perfected under KRS 355.9-308(4), (5), (6), or (7);

13 (b) That is perfected under KRS 355.9-309 when it attaches;

14 (c) In property subject to a statute, regulation, or treaty described in KRS 355.9-  
 15 311(1);

16 (d) In goods in possession of a bailee which is perfected under KRS 355.9-  
 17 312(4)(a) or (b);

18 (e) In certificated securities, documents, goods, or instruments which is perfected  
 19 without filing, control, or possession under KRS 355.9-312(5), (6), or (7);

20 (f) In collateral in the secured party's possession under KRS 355.9-313;

21 (g) In a certificated security which is perfected by delivery of the security  
 22 certificate to the secured party under KRS 355.9-313;

23 (h) In deposit accounts, electronic chattel paper, electronic documents,  
 24 investment property, or letter-of-credit rights which is perfected by control  
 25 under KRS 355.9-314;

26 (i) In proceeds which is perfected under KRS 355.9-315; or

27 (j) That is perfected under KRS 355.9-316.

1 (3) If a secured party assigns a perfected security interest or agricultural lien, a filing  
 2 under this article is not required to continue the perfected status of the security  
 3 interest against creditors of and transferees from the original debtor.

4 ➔Section 68. KRS 355.9-311 is amended to read as follows:

5 (1) Except as otherwise provided in subsection (4) of this section, the filing of a  
 6 financing statement is not necessary or effective to perfect a security interest in  
 7 property subject to:

8 (a) A statute, regulation, or treaty of the United States whose requirements for a  
 9 security interest's obtaining priority over the rights of a lien creditor with  
 10 respect to the property preempt KRS 355.9-310(1);

11 (b) KRS Chapter 186A; or

12 (c) A~~[-certificate of title]~~ statute of another jurisdiction which provides for a  
 13 security interest to be indicated on a~~[the]~~ certificate of title as a condition or  
 14 result of the security interest's obtaining priority over the rights of a lien  
 15 creditor with respect to the property.

16 (2) Compliance with the requirements of a statute, regulation, or treaty described in  
 17 subsection (1) of this section for obtaining priority over the rights of a lien creditor  
 18 is equivalent to the filing of a financing statement under this article. Except as  
 19 otherwise provided in subsection (4) of this section and KRS 355.9-313 and 355.9-  
 20 316(4) and (5) for goods covered by a certificate of title, a security interest in  
 21 property subject to a statute, regulation, or treaty described in subsection (1) of this  
 22 section may be perfected only by compliance with those requirements, and a  
 23 security interest so perfected remains perfected notwithstanding a change in the use  
 24 or transfer of possession of the collateral.

25 (3) Except as otherwise provided in subsection (4) of this section and KRS 355.9-  
 26 316(4) and (5), duration and renewal of perfection of a security interest perfected by  
 27 compliance with the requirements prescribed by a statute, regulation, or treaty

described in subsection (1) of this section are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to this article.

- (4) During any period in which collateral subject to a statute specified in subsection (1)(b) of this section is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person.

➔Section 69. KRS 355.9-312 is amended to read as follows:

- (1) A security interest in chattel paper, negotiable documents, instruments, or investment property may be perfected by filing.

- (2) Except as otherwise provided in KRS 355.9-315(3) and (4) for proceeds:

(a) A security interest in a deposit account may be perfected only by control under KRS 355.9-314;

(b) And except as otherwise provided in KRS 355.9-308(4), a security interest in a letter-of-credit right may be perfected only by control under KRS 355.9-314; and

(c) A security interest in money may be perfected only by the secured party's taking possession under KRS 355.9-313.

- (3) While goods are in the possession of a bailee that has issued a negotiable document covering the goods:

(a) A security interest in the goods may be perfected by perfecting a security interest in the document; and

(b) A security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

- (4) While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by:

(a) Issuance of a document in the name of the secured party;

- 1 (b) The bailee's receipt of notification of the secured party's interest; or
- 2 (c) Filing as to the goods.
- 3 (5) A security interest in certificated securities, negotiable documents, or instruments is
- 4 perfected without filing or the taking of possession or control for a period of twenty
- 5 (20) days from the time it attaches to the extent that it arises for new value given
- 6 under an authenticated security agreement.
- 7 (6) A perfected security interest in a negotiable document or goods in possession of a
- 8 bailee, other than one that has issued a negotiable document for the goods, remains
- 9 perfected for twenty (20) days without filing if the secured party makes available to
- 10 the debtor the goods or documents representing the goods for the purpose of:
- 11 (a) Ultimate sale or exchange; or
- 12 (b) Loading, unloading, storing, shipping, transshipping, manufacturing,
- 13 processing, or otherwise dealing with them in a manner preliminary to their
- 14 sale or exchange.
- 15 (7) A perfected security interest in a certificated security or instrument remains
- 16 perfected for twenty (20) days without filing if the secured party delivers the
- 17 security certificate or instrument to the debtor for the purpose of:
- 18 (a) Ultimate sale or exchange; or
- 19 (b) Presentation, collection, enforcement, renewal, or registration of transfer.
- 20 (8) After the twenty (20) day period specified in subsection (5), (6), or (7) of this
- 21 section expires, perfection depends upon compliance with this article.
- 22 ➔Section 70. KRS 355.9-313 is amended to read as follows:
- 23 (1) Except as otherwise provided in subsection (2) of this section, a secured party may
- 24 perfect a security interest in tangible negotiable documents, goods, instruments,
- 25 money, or tangible chattel paper by taking possession of the collateral. A secured
- 26 party may perfect a security interest in certificated securities by taking delivery of
- 27 the certificated securities under KRS 355.8-301.

- 1 (2) With respect to goods covered by a certificate of title issued by this  
2 Commonwealth, a secured party may perfect a security interest in the goods by  
3 taking possession of the goods only in the circumstances described in KRS 355.9-  
4 316(4).
- 5 (3) With respect to collateral other than certificated securities and goods covered by a  
6 document, a secured party takes possession of collateral in the possession of a  
7 person other than the debtor, the secured party, or a lessee of the collateral from the  
8 debtor in the ordinary course of the debtor's business, when:
- 9 (a) The person in possession authenticates a record acknowledging that it holds  
10 possession of the collateral for the secured party's benefit; or
- 11 (b) The person takes possession of the collateral after having authenticated a  
12 record acknowledging that it will hold possession of collateral for the secured  
13 party's benefit.
- 14 (4) If perfection of a security interest depends upon possession of the collateral by a  
15 secured party, perfection occurs no earlier than the time the secured party takes  
16 possession and continues only while the secured party retains possession.
- 17 (5) A security interest in a certificated security in registered form is perfected by  
18 delivery when delivery of the certificated security occurs under KRS 355.8-301 and  
19 remains perfected by delivery until the debtor obtains possession of the security  
20 certificate.
- 21 (6) A person in possession of collateral is not required to acknowledge that it holds  
22 possession for a secured party's benefit.
- 23 (7) If a person acknowledges that it holds possession for the secured party's benefit:
- 24 (a) The acknowledgment is effective under subsection (3) of this section or KRS  
25 355.8-301(1), even if the acknowledgment violates the rights of a debtor; and
- 26 (b) Unless the person otherwise agrees or law other than this article otherwise  
27 provides, the person does not owe any duty to the secured party and is not

1 required to confirm the acknowledgment to another person.

2 (8) A secured party having possession of collateral does not relinquish possession by  
3 delivering the collateral to a person other than the debtor or a lessee of the collateral  
4 from the debtor in the ordinary course of the debtor's business if the person was  
5 instructed before the delivery or is instructed contemporaneously with the delivery:

6 (a) To hold possession of the collateral for the secured party's benefit; or

7 (b) To redeliver the collateral to the secured party.

8 (9) A secured party does not relinquish possession, even if a delivery under subsection  
9 (8) of this section violates the rights of a debtor. A person to which collateral is  
10 delivered under subsection (8) of this section does not owe any duty to the secured  
11 party and is not required to confirm the delivery to another person unless the person  
12 otherwise agrees or law other than this article otherwise provides.

13 ➔Section 71. KRS 355.9-314 is amended to read as follows:

14 (1) A security interest in investment property, deposit accounts, letter-of-credit rights,{  
15 ~~or~~} electronic chattel paper, or electronic documents may be perfected by control of  
16 the collateral under KRS 355.9-104, 355.9-105, 355.9-106,{~~or~~} 355.9-107, or  
17 Section 6 of this Act.

18 (2) A security interest in deposit accounts, electronic chattel paper,{~~or~~} letter-of-credit  
19 rights, or electronic documents is perfected by control under KRS 355.9-104,  
20 355.9-105,{~~or~~} 355.9-107, or Section 6 of this Act when the secured party obtains  
21 control and remains perfected by control only while the secured party retains  
22 control.

23 (3) A security interest in investment property is perfected by control under KRS 355.9-  
24 106 from the time the secured party obtains control and remains perfected by  
25 control until:

26 (a) The secured party does not have control; and

27 (b) One (1) of the following occurs:

- 1           1. If the collateral is a certificated security, the debtor has or acquires
- 2           possession of the security certificate;
- 3           2. If the collateral is an uncertificated security, the issuer has registered or
- 4           registers the debtor as the registered owner; or
- 5           3. If the collateral is a security entitlement, the debtor is or becomes the
- 6           entitlement holder.

7           ➔Section 72. KRS 355.9-316 is amended to read as follows:

- 8    (1) A security interest perfected pursuant to the law of the jurisdiction designated in
- 9    KRS 355.9-301(1) or 355.9-305(3) remains perfected until the earliest of:

- 10   (a) The time perfection would have ceased under the law of that jurisdiction;
- 11   (b) The expiration of four (4) months after a change of the debtor's location to
- 12   another jurisdiction; or
- 13   (c) The expiration of one (1) year after a transfer of collateral to a person that
- 14   thereby becomes a debtor and is located in another jurisdiction.

- 15   (2) If a security interest described in subsection (1) of this section becomes perfected
- 16   under the law of the other jurisdiction before the earliest time or event described in
- 17   that subsection, it remains perfected thereafter. If the security interest does not
- 18   become perfected under the law of the other jurisdiction before the earliest time or
- 19   event, it becomes unperfected and is deemed never to have been perfected as against
- 20   a purchaser of the collateral for value.

- 21   (3) A possessory security interest in collateral, other than goods covered by a certificate
- 22   of title and as-extracted collateral consisting of goods, remains continuously
- 23   perfected if:

- 24   (a) The collateral is located in one jurisdiction and subject to a security interest
- 25   perfected under the law of that jurisdiction;
- 26   (b) Thereafter the collateral is brought into another jurisdiction; and
- 27   (c) Upon entry into the other jurisdiction, the security interest is perfected under

1           the law of the other jurisdiction.

2   (4) Except as otherwise provided in subsection (5) of this section, a security interest in  
3       goods covered by a certificate of title which is perfected by any method under the  
4       law of another jurisdiction when the goods become covered by a certificate of title  
5       from this Commonwealth remains perfected until the security interest would have  
6       become unperfected under the law of the other jurisdiction had the goods not  
7       become so covered.

8   (5) A security interest described in subsection (4) of this section becomes unperfected  
9       as against a purchaser of the goods for value and is deemed never to have been  
10      perfected as against a purchaser of the goods for value if the applicable  
11      requirements for perfection under KRS 355.9-311(2) or 355.9-313 are not satisfied  
12      before the earlier of:

13   (a) The time the security interest would have become unperfected under the law  
14       of the other jurisdiction had the goods not become covered by a certificate of  
15       title from this Commonwealth; or

16   (b) The expiration of four (4) months after the goods had become so covered.

17   (6) A security interest in deposit accounts, letter-of-credit rights, or investment property  
18       which is perfected under the law of the bank's jurisdiction, the issuer's jurisdiction, a  
19       nominated person's jurisdiction, the securities intermediary's jurisdiction, or the  
20       commodity intermediary's jurisdiction, as applicable, remains perfected until the  
21       earlier of:

22   (a) The time the security interest would have become unperfected under the law  
23       of that jurisdiction; or

24   (b) The expiration of four (4) months after a change of the applicable jurisdiction  
25       to another jurisdiction.

26   (7) If a security interest described in subsection (6) of this section becomes perfected  
27       under the law of the other jurisdiction before the earlier of the time or the end of the

period described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

**(8) The following rules apply to collateral to which a security interest attaches within four (4) months after the debtor changes its location to another jurisdiction:**

**(a) A financing statement filed before the change pursuant to the law of the jurisdiction designated in KRS 355.9-301(1) or 355.9-305(3) is effective to perfect a security interest in the collateral if the financing statement would have been effective to perfect a security interest in the collateral if the debtor had not changed its location; and**

**(b) If a security interest that is perfected by a financing statement that is effective under paragraph (a) of this subsection becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in KRS 355.9-301(1) or 355.9-305(3) or the expiration of the four (4) month period, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.**

**(9) If a financing statement naming an original debtor is filed pursuant to the law of the jurisdiction designated in KRS 355.9-301(1) or 355.9-305(3) and the new debtor is located in another jurisdiction, the following rules apply:**

**(a) The financing statement is effective to perfect a security interest in collateral in which the new debtor has or acquires rights before or within four (4) months after the new debtor becomes bound under KRS 355.9-203(4), if the financing statement would have been effective to perfect a**

security interest in the collateral if the collateral had been acquired by the original debtor; and

(b) A security interest that is perfected by the financing statement and which becomes perfected under the law of the other jurisdiction before the earlier of the expiration of the four (4) month period or the time the financing statement would have become ineffective under the law of the jurisdiction designated in KRS 355.9-301(1) or 355.9-305(3) remains perfected thereafter. A security interest that is perfected by the financing statement but which does not become perfected under the law of the other jurisdiction before the earlier time or event becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

➔ Section 73. KRS 355.9-317 is amended to read as follows:

(1) A security interest or agricultural lien is subordinate to the rights of:

(a) A person entitled to priority under KRS 355.9-322; and

(b) Except as otherwise provided in subsection (5) of this section, a person that becomes a lien creditor before the earlier of the time:

1. The security interest or agricultural lien is perfected; or

2. One (1) of the conditions specified in KRS 355.9-203(2)(c) is met and a financing statement covering the collateral is filed.

(2) Except as otherwise provided in subsection (5) of this section, a buyer, other than a secured party, of tangible chattel paper, documents, goods, instruments, or a certificated security~~[security certificate]~~ takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(3) Except as otherwise provided in subsection (5) of this section, a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and

1 receives delivery of the collateral without knowledge of the security interest or  
2 agricultural lien and before it is perfected.

3 (4) A licensee of a general intangible or a buyer, other than a secured party, of  
4 ~~collateral~~~~[accounts, electronic chattel paper, general intangibles, or investment~~  
5 ~~property]~~ other than tangible chattel paper, tangible documents, goods,  
6 instruments, or a certificated security takes free of a security interest if the licensee  
7 or buyer gives value without knowledge of the security interest and before it is  
8 perfected.

9 (5) Except as otherwise provided in KRS 355.9-320 and 355.9-321, if a person files a  
10 financing statement with respect to a purchase-money security interest before or  
11 within twenty (20) days after the debtor receives delivery of the collateral, the  
12 security interest takes priority over the rights of a buyer, lessee, or lien creditor  
13 which arise between the time the security interest attaches and the time of filing.

14 ➔Section 74. KRS 355.9-326 is amended to read as follows:

15 (1) Subject to subsection (2) of this section, a security interest that is created by a new  
16 debtor in collateral in which the new debtor has or acquires rights and~~[which is]~~  
17 perfected by a filed financing statement that would be ineffective to perfect the  
18 security interest but for the application of KRS 355.9-508, or KRS 355.9-508 and  
19 subsection (9)(a) of Section 72 of this Act,~~[is effective solely under KRS 355.9-508~~  
20 ~~in collateral in which a new debtor has or acquires rights]~~ is subordinate to a  
21 security interest in the same collateral which is perfected other than by a filed  
22 financing statement that is effective solely under KRS 355.9-508.

23 (2) The other provisions of this part of this article determine the priority among  
24 conflicting security interests in the same collateral perfected by filed financing  
25 statements described in subsection (1) of this section~~[that are effective solely under~~  
26 ~~KRS 355.9-508]~~. However, if the security agreements to which a new debtor  
27 became bound as debtor were not entered into by the same original debtor, the

1 conflicting security interests rank according to priority in time of the new debtor's  
2 having become bound.

3 ➔ Section 75. KRS 355.9-338 is amended to read as follows:

4 If a security interest or agricultural lien is perfected by a filed financing statement  
5 providing information described in KRS 355.9-516(2)(e) which is incorrect at the time  
6 the financing statement is filed:

7 (1) The security interest or agricultural lien is subordinate to a conflicting perfected  
8 security interest in the collateral to the extent that the holder of the conflicting  
9 security interest gives value in reasonable reliance upon the incorrect information;  
10 and

11 (2) A purchaser, other than a secured party, of the collateral takes free of the security  
12 interest or agricultural lien to the extent that, in reasonable reliance upon the  
13 incorrect information, the purchaser gives value and, in the case of *tangible* chattel  
14 paper, documents, goods, instruments, or a security certificate, receives delivery of  
15 the collateral.

16 ➔ Section 76. KRS 355.9-406 is amended to read as follows:

17 (1) Subject to subsections (2) to (9) of this section, an account debtor on an account,  
18 chattel paper, or a payment intangible may discharge its obligation by paying the  
19 assignor until, but not after, the account debtor receives a notification, authenticated  
20 by the assignor or the assignee, that the amount due or to become due has been  
21 assigned and that payment is to be made to the assignee. After receipt of the  
22 notification, the account debtor may discharge its obligation by paying the assignee  
23 and may not discharge the obligation by paying the assignor.

24 (2) Subject to subsection (8) of this section, notification is ineffective under subsection  
25 (1) of this section:

26 (a) If it does not reasonably identify the rights assigned;

27 (b) To the extent that an agreement between an account debtor and a seller of a

1 payment intangible limits the account debtor's duty to pay a person other than  
 2 the seller and the limitation is effective under law other than this article; or

3 (c) At the option of an account debtor, if the notification notifies the account  
 4 debtor to make less than the full amount of any installment or other periodic  
 5 payment to the assignee, even if:

- 6 1. Only a portion of the account, chattel paper, or payment intangible has  
 7 been assigned to that assignee;
- 8 2. A portion has been assigned to another assignee; or
- 9 3. The account debtor knows that the assignment to that assignee is  
 10 limited.

11 (3) Subject to subsection (8) of this section, if requested by the account debtor, an  
 12 assignee shall seasonably furnish reasonable proof that the assignment has been  
 13 made. Unless the assignee complies, the account debtor may discharge its obligation  
 14 by paying the assignor, even if the account debtor has received a notification under  
 15 subsection (1) of this section.

16 (4) Except as otherwise provided in subsection (5) of this section and KRS 355.2A-303  
 17 and 355.9-407, and subject to subsection (8) of this section, a term in an agreement  
 18 between an account debtor and an assignor or in a promissory note is ineffective to  
 19 the extent that it:

20 (a) Prohibits, restricts, or requires the consent of the account debtor or person  
 21 obligated on the promissory note to the assignment or transfer of, or the  
 22 creation, attachment, perfection, or enforcement of a security interest in, the  
 23 account, chattel paper, payment intangible, or promissory note; or

24 (b) Provides that the assignment or transfer or the creation, attachment,  
 25 perfection, or enforcement of the security interest may give rise to a default,  
 26 breach, right of recoupment, claim, defense, termination, right of termination,  
 27 or remedy under the account, chattel paper, payment intangible, or promissory

1 note.

2 (5) Subsection (4) of this section does not apply to the sale of a payment intangible or  
3 promissory note, *other than a sale pursuant to a disposition under KRS 355.9-610*  
4 *or an acceptance of collateral under KRS 355.9-620.*

5 (6) Except as otherwise provided in KRS 355.2A-303 and 355.9-407 and subject to  
6 subsections (8) and (9) of this section, a rule of law, statute, or regulation that  
7 prohibits, restricts, or requires the consent of a government, governmental body or  
8 official, or account debtor to the assignment or transfer of, or creation of a security  
9 interest in, an account or chattel paper is ineffective to the extent that the rule of  
10 law, statute, or regulation:

11 (a) Prohibits, restricts, or requires the consent of the government, governmental  
12 body or official, or account debtor to the assignment or transfer of, or the  
13 creation, attachment, perfection, or enforcement of a security interest in the  
14 account or chattel paper; or

15 (b) Provides that the assignment or transfer or the creation, attachment,  
16 perfection, or enforcement of the security interest may give rise to a default,  
17 breach, right of recoupment, claim, defense, termination, right of termination,  
18 or remedy under the account or chattel paper.

19 (7) Subject to subsection (8) of this section, an account debtor may not waive or vary  
20 its option under subsection (2)(c) of this section.

21 (8) This section is subject to law other than this article which establishes a different  
22 rule for an account debtor who is an individual and who incurred the obligation  
23 primarily for personal, family, or household purposes.

24 (9) This section does not apply to an assignment of a health-care-insurance receivable.

25 ➔Section 77. KRS 355.9-408 is amended to read as follows:

26 (1) Except as otherwise provided in subsection (2) of this section, a term in a  
27 promissory note or in an agreement between an account debtor and a debtor which

relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:

- (a) Would impair the creation, attachment, or perfection of a security interest; or
- (b) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(2) Subsection (1) of this section applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note, *other than a sale pursuant to a disposition under KRS 355.9-610 or an acceptance of collateral under KRS 355.9-620.*

(3) A rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:

- (a) Would impair the creation, attachment, or perfection of a security interest; or
- (b) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy

1 under the promissory note, health-care-insurance receivable, or general  
2 intangible.

3 (4) To the extent that a term in a promissory note or in an agreement between an  
4 account debtor and a debtor which relates to a health-care-insurance receivable or  
5 general intangible or a rule of law, statute, or regulation described in subsection (3)  
6 of this section would be effective under law other than this article but is ineffective  
7 under subsection (1) or (3) of this section, the creation, attachment, or perfection of  
8 a security interest in the promissory note, health-care-insurance receivable, or  
9 general intangible:

10 (a) Is not enforceable against the person obligated on the promissory note or the  
11 account debtor;

12 (b) Does not impose a duty or obligation on the person obligated on the  
13 promissory note or the account debtor;

14 (c) Does not require the person obligated on the promissory note or the account  
15 debtor to recognize the security interest, pay or render performance to the  
16 secured party, or accept payment or performance from the secured party;

17 (d) Does not entitle the secured party to use or assign the debtor's rights under the  
18 promissory note, health-care-insurance receivable, or general intangible,  
19 including any related information or materials furnished to the debtor in the  
20 transaction giving rise to the promissory note, health-care-insurance  
21 receivable, or general intangible;

22 (e) Does not entitle the secured party to use, assign, possess, or have access to any  
23 trade secrets or confidential information of the person obligated on the  
24 promissory note or the account debtor; and

25 (f) Does not entitle the secured party to enforce the security interest in the  
26 promissory note, health-care-insurance receivable, or general intangible.

27 (5) This section prevails over any inconsistent provisions of the following statutes and

any administrative regulations based on those statutes: KRS 56.230(2), 138.320(3), 138.665(4), 138.720(5), 139.250, 154A.400(3), 190.047(1), 190.070(2)(c), 217B.535(2), 228.070(2), 230.300(11), 234.330(10), 243.630(2), 260.815, 286.4-460(2), 292.320(2)(b), 286.8-036(3), 304.3-410(2)(f), 304.3-520(5), 333.080, 350.135(1), 365.430(27), and 286.9-070(2).

- (6) Subsection (3) of this section does not apply to the following statutes and to administrative regulations promulgated under the authority of those statutes: KRS 304.2-260, KRS 304.24-420, Subtitle 33 of KRS Chapter 304, and Subtitle 37 of KRS Chapter 304.

➔ Section 78. KRS 355.9-502 is amended to read as follows:

- (1) Subject to subsection (2) of this section, a financing statement is sufficient only if it:

- (a) Provides the name of the debtor;
- (b) Provides the name of the secured party or a representative of the secured party; and
- (c) Indicates the collateral covered by the financing statement.

- (2) Except as otherwise provided in KRS 355.9-501(2), to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection (1) of this section and also:

- (a) Indicate that it covers this type of collateral;
- (b) Indicate that it is to be filed in the real property records;
- (c) Provide a description of the real property to which the collateral is related; and
- (d) If the debtor does not have an interest of record in the real property, provide the name of a record owner.

- (3) A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

- 1 (a) The record indicates the goods or accounts that it covers;
- 2 (b) The goods are or are to become fixtures related to the real property described
- 3 in the record or the collateral is related to the real property described in the
- 4 record and is as-extracted collateral or timber to be cut;
- 5 (c) The record satisfies the requirements for a financing statement in this section:

6 1. The record need not indicate~~[other than an indication]~~ that it is to be

7 filed in the real property records; and

8 2. The record sufficiently provides the name of a debtor who is an

9 individual if it provides the individual name of the debtor or the

10 surname and first personal name of the debtor, even if the debtor is an

11 individual to whom subsection (1)(d) of Section 79 of this Act applies;

12 and

13 (d) The record is recorded.

14 (4) A financing statement may be filed before a security agreement is made or a

15 security interest otherwise attaches.

16 ➔Section 79. KRS 355.9-503 is amended to read as follows:

17 (1) A financing statement sufficiently provides the name of the debtor:

18 (a) Except as otherwise provided in paragraph (c) of this subsection, if the

19 debtor is a registered organization, or the collateral is held in a trust that is a

20 registered organization, only if the financing statement provides the name

21 that is stated to be the registered organization's name~~[of the debtor~~

22 ~~indicated]~~ on the public organic record~~[of]~~ most recently filed with or issued

23 or enacted by the registered organization's~~[debtor's]~~ jurisdiction of

24 organization which purports to state, amend, or restate the registered

25 organization's name~~[shows the debtor to have been organized];~~

26 (b) Subject to subsection (6) of this section, if the collateral is being

27 administered by the personal representative of a decedent~~[debtor is a~~

1 decedent's estate], only if the financing statement provides, as the name of the  
 2 debtor, the name of the decedent and, in a separate part of the financing  
 3 statement, indicates that the collateral is being administered by a personal  
 4 representative~~[debtor is an estate];~~

5 (c) If the collateral is held in a trust that is not a registered organization, only if  
 6 the financing statement~~[debtor is a trust or a trustee acting with respect to~~  
 7 ~~property held in trust, only if the financing statement];~~

8 1. Provides, as the name of the debtor:

9 a. If the organic record of the trust specifies a name for the trust,  
 10 the name so specified; or

11 b. If the organic record of the trust does not specify a name for the  
 12 trust, the name of the settlor or testator~~[Provides the name~~  
 13 ~~specified for the trust in its organic documents or, if no name is~~  
 14 ~~specified, provides the name of the settlor and additional~~  
 15 ~~information sufficient to distinguish the debtor from other trusts~~  
 16 ~~having one or more of the same settlors]; and~~

17 2. In a separate part of the financing statement:

18 a. If the name is provided in accordance with subparagraph 1.a. of  
 19 this paragraph, indicates that the collateral is held in a trust; or

20 b. If the name is provided in accordance with subparagraph 1.b. of  
 21 this paragraph, provides additional information sufficient to  
 22 distinguish the trust from other trusts having one (1) or more of  
 23 the same settlors or the same testator and indicates that the  
 24 collateral is held in a trust, unless the additional information so  
 25 indicates;

26 (d) Subject to subsection (7) of this section, if the debtor is an individual to  
 27 whom this state has issued an operator's license that has not expired, only if

the financing statement provides the name of the individual which is indicated on the operator's license;

(e) If the debtor is an individual to whom paragraph (d) of this subsection does not apply, only if the financing statement provides the individual name of the debtor or the surname and first personal name of the debtor~~[Indicates, in the debtor's name or otherwise, that the debtor is a trust or is a trustee acting with respect to property held in trust]; and~~

~~(d)(4)~~ In other cases:

1. If the debtor has a name, only if the financing statement~~[it]~~ provides the~~[individual or]~~ organizational name of the debtor; and
2. If the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor, in a manner that each name provided would be sufficient if the person named were the debtor.

(2) A financing statement that provides the name of the debtor in accordance with subsection (1) of this section is not rendered ineffective by the absence of:

- (a) A trade name or other name of the debtor; or
- (b) Unless required under subsection ~~(1)(d)2.~~~~[(1)(d)2.]~~ of this section, names of partners, members, associates, or other persons comprising the debtor.

(3) A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.

(4) Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.

(5) A financing statement may provide the name of more than one (1) debtor and the name of more than one (1) secured party.

(6) The name of the decedent indicated on the order appointing the personal representative of the decedent issued by the court having jurisdiction over the

collateral is sufficient as the "name of the decedent" under subsection (1)(b) of this section.

(7) If this state has issued to an individual more than one (1) operator's license of a kind described in subsection (1)(d) of this section, the one that was issued most recently is the one to which subsection (1)(d) of this section refers.

(8) The "name of the settlor or testator" means:

(a) If the settlor is a registered organization, the name of the registered organization indicated on the public organic record filed with or issued or enacted by the registered organization's jurisdiction of organization; or

(b) In other cases, the name of the settlor or testator indicated in the trust's organic record.

➔ Section 80. KRS 355.9-507 is amended to read as follows:

(1) A filed financing statement remains effective with respect to collateral that is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest or agricultural lien continues, even if the secured party knows of or consents to the disposition.

(2) Except as otherwise provided in subsection (3) of this section and KRS 355.9-508, a financing statement is not rendered ineffective if, after the financing statement is filed, the information provided in the financing statement becomes seriously misleading under KRS 355.9-506.

(3) If ~~the~~~~[a debtor so changes its]~~ name that a filed financing statement provides for a debtor becomes insufficient as the name of the debtor under subsection (1) of Section 79 of this Act so that the financing statement becomes seriously misleading under KRS 355.9-506:

(a) The financing statement is effective to perfect a security interest in collateral acquired by the debtor before ~~[the change]~~, or within four (4) months after, the filed financing statement becomes seriously misleading~~[debtor notifies the~~

secured party in writing of the change]; and

- (b) The financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than four (4) months after the filed financing statement becomes seriously misleading~~[debtor notifies the secured party in writing of the change]~~, unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within four (4) months after the filed financing statement becomes seriously misleading~~[the change]~~.

➔ Section 81. KRS 355.9-510 is amended to read as follows:

- (1) A filed record is effective only to the extent that it was filed by a person that may file it under KRS 355.9-509 or Section 82 of this Act~~[355.9-518(4)]~~.
- (2) A record authorized by one secured party of record does not affect the financing statement with respect to another secured party of record.
- (3) A continuation statement that is not filed within the six (6) month period prescribed by KRS 355.9-515(4) is ineffective.

➔ SECTION 82. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 TO BE NUMBERED 355.9-513A IS CREATED TO READ AS FOLLOWS:

(1) No person shall communicate a financing statement to a filing office for filing which is:

(a) Not authorized or permitted under KRS 355.9-509 or 355.9-708;

(b) Not related to a valid existing or potential commercial or financial transaction; and

(c) Filed with the intent to harass, hinder, or defraud a qualified person identified as an individual debtor in the financing statement.

(2) A qualified person may file in the office of the Secretary of State's Division of Business Filings a notarized affidavit, signed under penalty of perjury, stating that:

- 1       (a) The affiant is a qualified person;
- 2       (b) None of the secured parties of record are financial institutions as defined in  
 3       subsection (15) of this section;
- 4       (c) All secured parties of record are individuals; and
- 5       (d) The financing statement was filed by an individual not authorized or  
 6       permitted to do so under KRS 355.9-509 or 355.9-708.
- 7       (3) (a) The Secretary of State shall adopt and make available a form of affidavit for  
 8       use under this section.
- 9       (b) The filing office shall not charge a fee for the filing of an affidavit or a  
 10       termination statement under this section. The filing office shall not return  
 11       any fee paid for filing the financing statement identified in the affidavit,  
 12       whether or not the financing statement is subsequently reinstated.
- 13       (c) In a case in which KRS 355.9-501 provides that the proper office to file a  
 14       financing statement is the office designated for the filing or recording of a  
 15       record of a mortgage on real property, the Secretary of State shall promptly  
 16       transmit to that office copies of all communications regarding an affidavit  
 17       filed under this section, including the affidavit itself, any termination  
 18       statement filed under subsection (4) of this section, and any amendment  
 19       filed or preliminary or final court order received pursuant to subsection (7)  
 20       or (8) of this section, and upon receipt the receiving office shall execute the  
 21       actions described herein.
- 22       (4) If an affidavit is filed under subsection (2) of this section, the filing office shall  
 23       promptly file a termination statement with respect to the financing statement  
 24       identified in the affidavit. The termination statement shall indicate that it was  
 25       filed pursuant to this section. Except as provided in subsections (7) and (8) of this  
 26       section, a termination statement filed under this subsection shall take effect thirty  
 27       (30) days after it is filed.

1 (5) On the same day that a filing office files a termination statement under this  
 2 subsection (4) of this section, it shall send to each secured party of record for the  
 3 financing statement a notice advising the secured party of record that the  
 4 termination statement has been filed. The notice shall be sent by certified mail,  
 5 return receipt requested, to the address provided for the secured party in the  
 6 financing statement.

7 (6) An individual indicated as a secured party of record on a financing statement for  
 8 which a termination statement has been filed under subsection (4) of this section  
 9 may, before or after the termination statement takes effect:

10 (a) Request from the Secretary of State an expedited administrative review of  
 11 the decision to terminate the filing; or

12 (b) Bring an action against the individual who filed the affidavit under  
 13 subsection (2) of this section seeking a determination that the financing  
 14 statement was filed by a person entitled to do so under KRS 355.9-509(1).

15 An action under this subsection shall have priority on the court's calendar  
 16 and shall proceed by expedited hearing. If the individual who filed the  
 17 affidavit resides in this state, the exclusive venue in this state for the action  
 18 shall be in the Circuit Court for the county where the individual principally  
 19 resides in this state. If the individual who filed the affidavit does not reside  
 20 in this state, the exclusive venue in this state shall be in the Circuit Court  
 21 for the county where the filing office in which the financing statement was  
 22 filed is located.

23 (7) In an action brought pursuant to subsection (6) of this section, a court may, in  
 24 appropriate circumstances, order preliminary relief, including but not limited to  
 25 an order precluding the termination statement from taking effect or directing a  
 26 party to take action to prevent the termination statement from taking effect. If the  
 27 court issues such an order and the filing office receives a certified copy of the

1 order before the termination statement takes effect as provided in subsection (4)  
 2 of this section, the termination statement shall not take effect and the filing office  
 3 shall promptly file an amendment to the financing statement that indicates that  
 4 an order has prevented the termination statement from taking effect. If such an  
 5 order ceases to be effective by reason of a subsequent order or a final judgment of  
 6 that court or by an order issued by another court, and the filing office receives a  
 7 certified copy of the subsequent judgment or order, the termination statement  
 8 shall become immediately effective upon receipt of the certified copy and the  
 9 filing office shall promptly file an amendment to the financing statement  
 10 indicating that the termination statement is effective.

11 (8) If the Secretary of State determines in an expedited administrative review  
 12 initiated under subsection (6)(a) of this section, or if a court determines in an  
 13 action brought pursuant to subsection (6)(b) of this section, that the financing  
 14 statement was filed by a person entitled to do so under KRS 355.9-509(1) and the  
 15 filing office receives a certified copy of the administrative determination or  
 16 court's final judgment or order before the termination statement takes effect, the  
 17 termination statement shall not take effect and the filing office shall remove the  
 18 termination statement and any amendments filed under subsection (7) of this  
 19 section from the files. If the filing office receives the certified copy after the  
 20 termination statement takes effect and within thirty (30) days after the final  
 21 judgment or order was entered, the filing office shall promptly file an amendment  
 22 to the financing statement that indicates that the financing statement has been  
 23 reinstated.

24 (9) Except as provided in subsection (10) of this section, upon the filing of an  
 25 amendment reinstating a financing statement under subsection (8) of this section,  
 26 the effectiveness of the financing statement is retroactively reinstated and the  
 27 financing statement shall be considered never to have been ineffective against all

1 persons and for all purposes.

2 (10) A financing statement whose effectiveness was terminated under subsection (4) of  
 3 this section and has been reinstated under subsection (8) of this section shall not  
 4 be effective as against a person that purchased the collateral in good faith  
 5 between the time the termination statement was filed and the time of the filing of  
 6 the amendment reinstating the financing statement, to the extent that the person  
 7 gave new value in reliance on the termination statement.

8 (11) (a) A person who violates subsection (1) of this section shall be civilly liable to  
 9 an injured qualified person for:

10 1. Actual damages caused by the violation;

11 2. Reasonable attorney fees; and

12 3. Exemplary damages in an amount determined by the court.

13 (b) Civil damages under paragraph (a) of this subsection are in addition to any  
 14 recovery to which the qualified person is entitled under KRS 355.9-625, or  
 15 under law other than this article.

16 (12) Neither the filing office nor any of its employees shall be subject to liability for  
 17 the termination or amendment of a financing statement in the lawful  
 18 performance of the duties of the office under this section.

19 (13) A person may not file an affidavit under this section with respect to a financing  
 20 statement filed by a financial institution, as defined in subsection (15) of this  
 21 section or a representative of a financial institution.

22 (14) In this section, the term "qualified person" means an individual who, at the time  
 23 the financing statement referred to in subsection (2) of this section was filed or  
 24 within five (5) years prior to the time of filing, was:

25 (a) An elected or appointed official of this state or a governmental unit of this  
 26 state as defined in subsection (1) of Section 60 of this Act;

27 (b) An officer or employee of a federal, state, or local judicial or prosecutorial

1 office;

2 (c) An officer or employee of a federal, state, or local law enforcement office,  
 3 including a correctional officer or employee; or

4 (d) An officer or employee of an office designated in KRS 355.9-501 as a place  
 5 to file a financing statement.

6 (15) In this section, the term "financial institution" means a person that:

7 (a) Is in the business of extending credit and servicing loans, including  
 8 acquiring, purchasing, selling, and brokering, or other extensions of credit;  
 9 and

10 (b) Where applicable, holds whatever license, charter, or registration that is  
 11 required to engage in such business.

12 The term includes banks, savings banks, savings associations, building and loan  
 13 associations, credit unions, consumer and commercial finance companies,  
 14 industrial banks, industrial loan companies, insurance companies, investment  
 15 companies, installment sellers, mortgage servicers, sales finance companies, and  
 16 leasing companies.

17 ➔Section 83. KRS 355.9-515 is amended to read as follows:

18 (1) Except as otherwise provided in subsections (2), (5), (6), and (7) of this section, a  
 19 filed financing statement is effective for a period of five (5) years after the date of  
 20 filing.

21 (2) Except as otherwise provided in subsections (5), (6), and (7) of this section, an  
 22 initial financing statement filed in connection with a public-finance transaction or  
 23 manufactured-home transaction is effective for a period of thirty (30) years after the  
 24 date of filing if it indicates that it is filed in connection with a public-finance  
 25 transaction or manufactured-home transaction.

26 (3) The effectiveness of a filed financing statement lapses on the expiration of the  
 27 period of its effectiveness unless before the lapse a continuation statement is filed

pursuant to subsection (4) of this section. Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected, unless the security interest is perfected otherwise. If the security interest or agricultural lien becomes unperfected upon lapse, it is deemed never to have been perfected as against a purchaser of the collateral for value.

(4) A continuation statement may be filed only within six (6) months before the expiration of the five (5) year period specified in subsection (1) of this section or the thirty (30) year period specified in subsection (2) of this section, whichever is applicable.

(5) Except as otherwise provided in KRS 355.9-510, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of five (5) years commencing on the day on which the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the five (5) year period, the financing statement lapses in the same manner as provided in subsection (3) of this section, unless, before the lapse, another continuation statement is filed pursuant to subsection (4) of this section. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.

(6) If a debtor is a transmitting utility and a filed initial financing statement so indicates, the financing statement is effective until a termination statement is filed.

(7) A record of a mortgage that is effective as a financing statement filed as a fixture filing under KRS 355.9-502(3) remains effective as a financing statement filed as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

➔Section 84. KRS 355.9-516 is amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, communication of a

1 record to a filing office and tender of the filing fee or acceptance of the record by  
 2 the filing office constitutes filing.

3 (2) Filing does not occur with respect to a record that a filing office refuses to accept  
 4 because:

5 (a) The record is not communicated by a method or medium of communication  
 6 authorized by the filing office;

7 (b) An amount equal to or greater than the applicable filing fee is not tendered;

8 (c) The filing office is unable to index the record because:

9 1. In the case of an initial financing statement, the record does not provide  
 10 a name for the debtor;

11 2. In the case of an amendment or information~~[correction]~~ statement, the  
 12 record:

13 a. Does not identify the initial financing statement as required by  
 14 KRS 355.9-512 or 355.9-518, as applicable; or

15 b. Identifies an initial financing statement whose effectiveness has  
 16 lapsed under KRS 355.9-515;

17 3. In the case of an initial financing statement that provides the name of a  
 18 debtor identified as an individual or an amendment that provides a name  
 19 of a debtor identified as an individual which was not previously  
 20 provided in the financing statement to which the record relates, the  
 21 record does not identify the debtor's surname~~[last name]~~; or

22 4. In the case of a record filed in the filing office described in KRS 355.9-  
 23 501(1)(a), the record does not provide a sufficient description of the real  
 24 property to which it relates;

25 (d) In the case of an initial financing statement or an amendment that adds a  
 26 secured party of record, the record does not provide a name and mailing  
 27 address for the secured party of record;

- 1 (e) In the case of an initial financing statement or an amendment that provides a  
 2 name of a debtor which was not previously provided in the financing  
 3 statement to which the amendment relates, the record does not:
- 4 1. Provide a mailing address for the debtor; or
  - 5 2. Indicate whether the debtor is an individual or an organization; ~~or~~
  - 6 3. ~~If the financing statement indicates that the debtor is an~~  
 7 ~~organization, provide:~~
    - 8 a. ~~A type of organization for the debtor;~~
    - 9 b. ~~A jurisdiction of organization for the debtor; or~~
    - 10 c. ~~An organizational identification number for the debtor or indicate~~  
 11 ~~that the debtor has none;]~~
- 12 (f) In the case of an assignment reflected in an initial financing statement under  
 13 KRS 355.9-514(1) or an amendment filed under KRS 355.9-514(2), the record  
 14 does not provide a name and mailing address for the assignee; or
- 15 (g) In the case of a continuation statement, the record is not filed within the six  
 16 (6) month period prescribed by KRS 355.9-515(4).
- 17 (3) For purposes of subsection (2) of this section:
- 18 (a) A record does not provide information if the filing office is unable to read or  
 19 decipher the information; and
  - 20 (b) A record that does not indicate that it is an amendment or identify an initial  
 21 financing statement to which it relates, as required by KRS 355.9-512, 355.9-  
 22 514, or 355.9-518, is an initial financing statement.
- 23 (4) A record that is communicated to the filing office with tender of the filing fee, but  
 24 which the filing office refuses to accept for a reason other than one set forth in  
 25 subsection (2) of this section, is effective as a filed record except as against a  
 26 purchaser of the collateral which gives value in reasonable reliance upon the  
 27 absence of the record from the files.

1        ➔SECTION 85. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355  
 2 TO BE NUMBERED 355.9-516A IS CREATED TO READ AS FOLLOWS

3        (1) Upon approval of the Secretary of State, a filing office may refuse to accept a  
 4        record communicated for filing under this article if it is evident from the contents  
 5        of the record, including the described collateral, or from information in a record  
 6        accompanying the record communicated for filing, that the person filing the  
 7        record is not authorized to do so under KRS 355.9-509 or 355.9-708. This section  
 8        only applies if all debtors and secured parties indicated on the record are  
 9        individuals.

10       (2) If a filing office refuses to accept a record pursuant to subsection (1) of this  
 11       section, it shall immediately inform the person attempting to file the record and  
 12       all persons identified on the record as secured parties that the record has not  
 13       been accepted, and may request additional documentation supporting the filing.  
 14       The Secretary of State shall review all documentation received pursuant to a  
 15       request under this subsection, and if the Secretary of State concludes that the  
 16       record is authorized under KRS 355.9-509 or 355.9-708, the Secretary of State  
 17       shall direct the filing office to promptly accept the record.

18       (3) A person indicated as a secured party of record on a financing statement that is  
 19       refused pursuant to subsection (1) of this section may request from the Secretary  
 20       of State an expedited administrative review of the decision to refuse filing.

21       (4) A person indicated as a secured party of record on a financing statement that is  
 22       refused filing pursuant to subsection (1) of this section may bring an action  
 23       against the Secretary of State seeking a determination that the financing  
 24       statement was filed by a person entitled to do so under KRS 355.9-509(1) and was  
 25       authorized. An action under this subsection shall have priority on the court's  
 26       calendar and shall proceed by expedited hearing. If the individual who filed the  
 27       affidavit resides in this state, the exclusive venue in this state for the action shall

be in the Circuit Court for the county where the individual principally resides in this state. If the individual who filed the affidavit does not reside in this state, the exclusive venue in this state shall be in the Circuit Court for the county where the filing office in which the financing statement was filed is located.

(5) If the Secretary of State determines in an expedited administrative review initiated under subsection (3) of this section, or if a court determines in an action brought pursuant to subsection (4) of this section, that a rejected record was filed by a person entitled to do so under KRS 355.9-509(1) and should have been accepted for filing, upon receipt of a certified copy of that determination the filing office shall promptly file the record. Upon the filing of a record improperly refused under subsection (1) of this section, the record shall be treated as if it had been filed and effective as of the date originally submitted, except against a person that purchased the collateral in good faith between the date the record was rejected for filing and the subsequent actual date of the filing, to the extent that the person gave new value in reliance on the absence of the record from the files.

➔ Section 86. KRS 355.9-518 is amended to read as follows:

(1) A person may file in the filing office an information~~[a correction]~~ statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

(2) An information~~[A correction]~~ statement filed under subsection (1) of this section shall:

(a) Identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;

(b) Indicate that it is an information~~[a correction]~~ statement; and

(c) Provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief

1 that the record was wrongfully filed.

2 (3) *A person may file in the filing office an information statement with respect to a*  
 3 *record filed there if the person is a secured party of record with respect to the*  
 4 *financing statement to which the record relates and believes that the person that*  
 5 *filed the record was not entitled to do so under KRS 355.9-509(4).*

6 (4) *An information statement filed under subsection (3) of this section shall:*

7 (a) *Identify the record to which it relates by the file number assigned to the*  
 8 *initial financing statement to which the record relates;*

9 (b) *Indicate that it is an information statement; and*

10 (c) *Provide the basis for the person's belief that the person that filed the record*  
 11 *was not entitled to do so under KRS 355.9-509(4).*

12 (5) Except as provided in subsection (6){(4)} of this section, the filing of *an*  
 13 *information*{a correction} statement does not affect the effectiveness of an initial  
 14 financing statement or other filed record.

15 (6){(4)} *An information*{A correction} statement that is filed by a bank, or subsidiary  
 16 or affiliate thereof, shall affect the effectiveness of the record to which it relates if:

17 (a) The *information*{correction} statement includes a written statement of an  
 18 officer of the entity filing the *information*{correction} statement, which  
 19 provides the information specified in subsection (2) of this section;

20 (b) The officer's written statement provides the officer's title and information  
 21 identifying how the filer qualifies as a bank, or subsidiary or affiliate thereof;

22 (c) The officer's written statement has been duly acknowledged before a notary  
 23 public; and

24 (d) The record to which the *information*{correction} statement relates was  
 25 originally filed by or refers to a record filed by the entity filing the  
 26 *information*{correction} statement.

27 ➔ Section 87. KRS 355.9-520 is amended to read as follows:

- 1 (1) A filing office shall refuse to accept a record for filing for a reason set forth in KRS  
 2 355.9-516(2) and may refuse to accept a record for filing only for a reason set forth  
 3 in KRS 355.9-516(2) or Section 86 of this Act.
- 4 (2) If a filing office refuses to accept a record for filing, it shall communicate to the  
 5 person that presented the record the fact of and reason for the refusal and the date  
 6 and time the record would have been filed had the filing office accepted it. The  
 7 communication must be made at the time and in the manner prescribed by filing-  
 8 office rule but in no event more than two (2) business days after the filing office  
 9 receives the record.
- 10 (3) A filed financing statement satisfying KRS 355.9-502(1) and (2) is effective, even if  
 11 the filing office is required to refuse to accept it for filing under subsection (1) of  
 12 this section or refuses to accept for filing for a reason set forth in this section or  
 13 Section 86 of this Act. However, KRS 355.9-338 applies to a filed financing  
 14 statement providing information described in KRS 355.9-516(2)(e) which is  
 15 incorrect at the time the financing statement is filed.
- 16 (4) If a record communicated to a filing office provides information that relates to more  
 17 than one (1) debtor, this part of this article applies as to each debtor separately.
- 18 ➔Section 88. KRS 355.9-521 is amended to read as follows:
- 19 (1) A filing office that accepts written records may not refuse to accept a written initial  
 20 financing statement in the form and format set forth in the official text of the 2010  
 21 amendments~~[as Form UCC1 and Form UCC1Ad in the final official text of the~~  
 22 ~~1999 revisions]~~ to Article 9 of the Uniform Commercial Code promulgated by The  
 23 American Law Institute and the National Conference of Commissioners on Uniform  
 24 State Laws, except for a reason set forth in KRS 355.9-516(2).
- 25 (2) A filing office that accepts written records may not refuse to accept a written record  
 26 in the form and format set forth as Form UCC3 and Form UCC3Ad in the final  
 27 official text of the 2010 amendments~~[1999 revisions]~~ to Article 9 of the Uniform

Commercial Code promulgated by The American Law Institute and the National Conference of Commissioners on Uniform State Laws, except for a reason set forth in KRS 355.9-516(2).

➔ Section 89. KRS 355.9-601 is amended to read as follows:

(1) After default, a secured party has the rights provided in this part of this article and, except as otherwise provided in KRS 355.9-602, those provided by agreement of the parties. A secured party:

(a) May reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure; and

(b) If the collateral is documents, may proceed either as to the documents or as to the goods they cover.

(2) A secured party in possession of collateral or control of collateral under KRS 355.9-104, 355.9-105, 355.9-106, ~~{or}~~ 355.9-107, or Section 6 of this Act has the rights and duties provided in KRS 355.9-207.

(3) The rights under subsections (1) and (2) of this section are cumulative and may be exercised simultaneously.

(4) Except as otherwise provided in subsection (7) of this section and KRS 355.9-605, after default, a debtor and an obligor have the rights provided in this part of this article and by agreement of the parties.

(5) If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

(a) The date of perfection of the security interest or agricultural lien in the collateral;

(b) The date of filing a financing statement covering the collateral; or

(c) Any date specified in a statute under which the agricultural lien was created.

(6) A sale pursuant to an execution is a foreclosure of the security interest or

1 agricultural lien by judicial procedure within the meaning of this section. A secured  
 2 party may purchase at the sale and thereafter hold the collateral free of any other  
 3 requirements of this article.

4 (7) Except as otherwise provided in KRS 355.9-607(3), this part of this article imposes  
 5 no duties upon a secured party that is a consignor or is a buyer of accounts, chattel  
 6 paper, payment intangibles, or promissory notes.

7 ➔Section 90. KRS 355.9-607 is amended to read as follows:

8 (1) If so agreed, and in any event after default, a secured party:

9 (a) May notify an account debtor or other person obligated on collateral to make  
 10 payment or otherwise render performance to or for the benefit of the secured  
 11 party;

12 (b) May take any proceeds to which the secured party is entitled under KRS  
 13 355.9-315;

14 (c) May enforce the obligations of an account debtor or other person obligated on  
 15 collateral and exercise the rights of the debtor with respect to the obligation of  
 16 the account debtor or other person obligated on collateral to make payment or  
 17 otherwise render performance to the debtor, and with respect to any property  
 18 that secures the obligations of the account debtor or other person obligated on  
 19 the collateral;

20 (d) If it holds a security interest in a deposit account perfected by control under  
 21 KRS 355.9-104(1)(a), may apply the balance of the deposit account to the  
 22 obligation secured by the deposit account; and

23 (e) If it holds a security interest in a deposit account perfected by control under  
 24 KRS 355.9-104(1)(b) or (c), may instruct the bank to pay the balance of the  
 25 deposit account to or for the benefit of the secured party.

26 (2) If necessary to enable a secured party to exercise under subsection (1)(c) of this  
 27 section the right of a debtor to enforce a mortgage nonjudicially, the secured party

1 may record in the office in which a record of the mortgage is recorded:

2 (a) A copy of the security agreement that creates or provides for a security interest  
3 in the obligation secured by the mortgage; and

4 (b) The secured party's sworn affidavit in recordable form stating that:

5 1. A default has occurred with respect to the obligation secured by the  
6 mortgage; and

7 2. The secured party is entitled to enforce the mortgage nonjudicially.

8 (3) A secured party shall proceed in a commercially reasonable manner if the secured  
9 party:

10 (a) Undertakes to collect from or enforce an obligation of an account debtor or  
11 other person obligated on collateral; and

12 (b) Is entitled to charge back uncollected collateral or otherwise to full or limited  
13 recourse against the debtor or a secondary obligor.

14 (4) A secured party may deduct from the collections made pursuant to subsection (3) of  
15 this section reasonable expenses of collection and enforcement, including  
16 reasonable attorney's fees and legal expenses incurred by the secured party.

17 (5) This section does not determine whether an account debtor, bank, or other person  
18 obligated on collateral owes a duty to a secured party.

19 ➔SECTION 91. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355  
20 TO BE NUMBERED 355.9-801 IS CREATED TO READ AS FOLLOWS:

21 Sections 91 to 99 shall take effect on July 1, 2013.

22 ➔SECTION 92. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355  
23 TO BE NUMBERED 355.9-802 IS CREATED TO READ AS FOLLOWS:

24 (1) Except as otherwise provided in this article, this article applies to a transaction or  
25 lien within its scope, even if the transaction or lien was entered into or created  
26 before the effective date of Sections 91 to 99 of this Act.

27 (2) Sections 91 to 99 of this Act do not affect an action, case, or proceeding

commenced before the effective date of Sections 91 to 99 of this Act.

➔SECTION 93. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 TO BE NUMBERED 355.9-803 IS CREATED TO READ AS FOLLOWS:

(1) A security interest that is a perfected security interest immediately before the effective date of Sections 91 to 99 of this Act is a perfected security interest under Article 9 as amended by Sections 91 to 99 of this Act if, on or after the effective date of Sections 91 to 99 of this Act, the applicable requirements for attachment and perfection under Article 9 as amended by Sections 91 to 99 of this Act are satisfied without further action.

(2) Except as otherwise provided in Section 95 of this Act, if, immediately before the effective date of Sections 91 to 99 of this Act, a security interest is a perfected security interest, but the applicable requirements for perfection under this article as amended by Sections 91 to 99 of this Act, are not satisfied on the effective date of Sections 91 to 99 of this Act, the security interest remains perfected thereafter only if the applicable requirements for perfection under this article, as amended by Sections 91 to 99 of this Act, are satisfied within one (1) year after the effective date of Sections 91 to 99 of this Act.

➔SECTION 94. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 TO BE NUMBERED 355.9-804 IS CREATED TO READ AS FOLLOWS:

A security interest that is an unperfected security interest immediately before the effective date of Sections 91 to 99 of this Act becomes a perfected security interest:

(1) Without further action, on or after the effective date of Sections 91 to 99 of this Act, if the applicable requirements for perfection under this article as amended by Sections 91 to 99 of this Act are satisfied before or at the time; or

(2) When the applicable requirements for perfection are satisfied if the requirements are satisfied after the effective date of Sections 91 to 99 of this Act.

➔SECTION 95. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355

TO BE NUMBERED 355.9-805 IS CREATED TO READ AS FOLLOWS:

(1) The filing of a financing statement before the effective date of Sections 91 to 99 of this Act is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under this article, as amended by Sections 91 to 99 of this Act.

(2) Sections 91 to 99 of this Act do not render ineffective an effective financing statement that, before the effective date of Sections 91 to 99 of this Act, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in this article as it existed before Sections 91 to 99 of this Act became law. However, except as otherwise provided in subsections (3) and (4) of this section and Section 96 of this Act, the financing statement ceases to be effective:

(a) If the financing statement is filed in this state, at the time the financing statement would have ceased to be effective had this section not become law; or

(b) If the financing statement is filed in another jurisdiction, at the earlier of:

1. The time the financing statement would have ceased to be effective under the law of that jurisdiction; or

2. June 30, 2018.

(3) The filing of a continuation statement after the effective date of Sections 91 to 99 of this Act does not continue the effectiveness of the financing statement filed before the effective date of Sections 91 to 99 of this Act. However, upon the timely filing of a continuation statement after the effective date of Sections 91 to 99 of this Act and in accordance with the law of the jurisdiction governing perfection as provided in this article, as amended by Sections 91 to 99 of this Act, the effectiveness of a financing statement filed in the same office in that jurisdiction before the effective date of Sections 91 to 99 of this Act continues for the period

1 provided by the law of that jurisdiction.

2 (4) Subsection (2)(b)2. of this section applies to a financing statement that, before the  
 3 effective date of Sections 91 to 99 of this Act, is filed against a transmitting utility  
 4 and satisfies the applicable requirements for perfection under the law of the  
 5 jurisdiction governing perfection as provided in this article as it existed before the  
 6 effective date of Sections 91 to 99 of this Act only to the extent that this article as  
 7 amended by Sections 91 to 99 of this Act provides that the law of a jurisdiction  
 8 other than the jurisdiction in which the financing statement is filed governs  
 9 perfection of a security interest in collateral covered by the financing statement.

10 (5) A financing statement that includes a financing statement filed before the  
 11 effective date of Sections 91 to 99 of this Act and a continuation statement filed  
 12 after the effective date of Sections 91 to 99 of this Act is effective only to the  
 13 extent that it satisfies the requirements of this article, as amended by Sections 91  
 14 to 99 of this Act, for an initial financing statement. A financing statement that  
 15 indicates that the debtor is a decedent's estate indicates that the collateral is being  
 16 administered by a personal representative within the meaning of subsection (1)(b)  
 17 of Section 79 of this Act. A financing statement that indicates that the debtor is a  
 18 trust or is a trustee acting with respect to property held in trust indicates that the  
 19 collateral is held in a trust within the meaning of subsection (1)(c) of Section 79  
 20 of this Act.

21 ➔SECTION 96. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355  
 22 TO BE NUMBERED 355.9-806 IS CREATED TO READ AS FOLLOWS:

23 (1) The filing of an initial financing statement in the office specified in KRS 355.9-  
 24 501 continues the effectiveness of a financing statement filed before the effective  
 25 date of Sections 91 to 99 of this Act if:

26 (a) The filing of an initial financing statement in that office would be effective  
 27 to perfect a security interest under this article as amended by Sections 91 to

1           99 of this Act;

2           (b) The pre-effective-date financing statement was filed in an office in another  
3           state; and

4           (c) The initial financing statement satisfies subsection (3) of this section.

5           (2) The filing of an initial financing statement under subsection (1) of this section  
6           continues the effectiveness of the pre-effective-date financing statement:

7           (a) If the initial financing statement is filed before the effective date of Sections  
8           91 to 99 of this Act, for the period provided in Section 83 of this Act before  
9           the effective date of Section 83 of this Act, with respect to an initial  
10          financing statement; and

11          (b) If the initial financing statement is filed after the effective date of Sections  
12          91 to 99 of this Act, for the period provided in Section 83 of this Act on the  
13          effective date of Section 83 of this Act, with respect to an initial financing  
14          statement.

15          (3) To be effective for purposes of subsection (1) of this section, an initial financing  
16          statement shall:

17          (a) Satisfy the requirements of KRS Chapter 355 as amended by Sections 91 to  
18          99 of this Act for an initial financing statement;

19          (b) Identify the pre-effective-date financing statement by indicating the office in  
20          which the financing statement was filed and providing the dates of filing  
21          and file numbers, if any, of the financing statement and of the most recent  
22          continuation statement filed with respect to the financing statement; and

23          (c) Indicate that the pre-effective-date financing statement remains effective.

24          ➔SECTION 97. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355  
25          TO BE NUMBERED 355.9-807 IS CREATED TO READ AS FOLLOWS:

26          (1) In this section, "pre-effective-date financing statement" means a financing  
27          statement filed before the effective date of Sections 91 to 99 of this Act.

- 1 (2) After the effective date of Sections 91 to 99 of this Act, a person may add or delete  
 2 collateral covered by, continue or terminate the effectiveness of, or otherwise  
 3 amend the information provided in, a pre-effective-date financing statement only  
 4 in accordance with the law of the jurisdiction governing perfection as provided in  
 5 this article as amended by Sections 91 to 99 of this Act. However, the  
 6 effectiveness of a pre-effective-date financing statement also may be terminated  
 7 in accordance with the law of the jurisdiction in which the financing statement is  
 8 filed.
- 9 (3) Except as otherwise provided in subsection (4) of this section, if the law of this  
 10 state governs perfection of a security interest, the information in a pre-effective-  
 11 date financing statement may be amended after the effective date of Sections 91  
 12 to 99 of this Act only if:
- 13 (a) The pre-effective-date financing statement and an amendment are filed in  
 14 the office specified in KRS 355.9-501;
- 15 (b) An amendment is filed in the office specified in KRS 355.9-501  
 16 concurrently with, or after the filing in that office of, an initial financing  
 17 statement that satisfies subsection (3) of Section 96 of this Act; or
- 18 (c) An initial financing statement that provides the information as amended  
 19 and satisfies subsection (3) of Section 96 of this Act is filed in the office  
 20 specified in KRS 355.9-501.
- 21 (4) If the law of this state governs perfection of a security interest, the effectiveness  
 22 of a pre-effective-date financing statement may be continued only under  
 23 subsections (3) and (5) of Section 95 of this Act or Section 96 of this Act.
- 24 (5) Whether or not the law of this state governs perfection of a security interest, the  
 25 effectiveness of a pre-effective-date financing statement filed in this state may be  
 26 terminated after the effective date of Sections 91 to 99 of this Act by filing a  
 27 termination statement in the office in which the pre-effective-date financing

statement is filed, unless an initial financing statement that satisfies subsection (3) of Section 96 of this Act has been filed in the office specified by the law of the jurisdiction governing perfection as provided in this article as amended by Sections 91 to 99 of this Act as the office in which to file a financing statement.

➔SECTION 98. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 TO BE NUMBERED 355.9-808 IS CREATED TO READ AS FOLLOWS:

A person may file an initial financing statement or a continuation statement under this part if:

(1) The secured party of record authorizes the filing; and

(2) The filing is necessary under this part:

(a) To continue the effectiveness of a financing statement filed before the effective date of Sections 91 to 99 of this Act; or

(b) To perfect or continue the perfection of a security interest.

➔SECTION 99. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 TO BE NUMBERED 355.9-809 IS CREATED TO READ AS FOLLOWS:

Sections 91 to 99 of this Act determines the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before the effective date of Sections 91 to 99 of this Act, this article as it existed before amendment determines priority.

➔Section 100. KRS 382.430 is amended to read as follows:

(1) No mortgage, conveyance, or other instrument or writing constituting a lien or other security for any note or other evidence of indebtedness shall be received for record by any county clerk unless such mortgage, conveyance, or other writing gives a mailing address of the lienholder~~[the address of the person or the address of the principal place of business of the corporation owning or holding the note or other evidence of indebtedness, or liable for the payment of taxes thereon].~~

(2) Should there be an assignment of such mortgage, conveyance, or other instrument

1 or writing constituting a lien or other security for any note or other evidence of  
 2 indebtedness, of record in the clerk's office, the assignment shall state the address of  
 3 the assignee. ~~[Unless any assignment is made of record, the original holder or owner~~  
 4 ~~shall be liable for taxes as though no assignment had been made.]~~

5 (3) For the purposes of this chapter, a mortgage that has been recorded with any county  
 6 clerk shall not be deemed invalid or ineffective as constructive notice for failure to  
 7 include the county of residence or the principal place of business of the mortgagee  
 8 or holder of the note or other evidence of indebtedness ~~[in the mortgagee's~~  
 9 ~~address]~~.

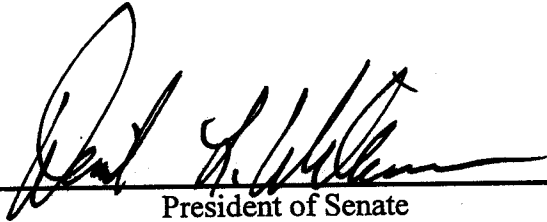
10 ➔ SECTION 101. A NEW SECTION OF KRS CHAPTER 186A IS CREATED  
 11 TO READ AS FOLLOWS:

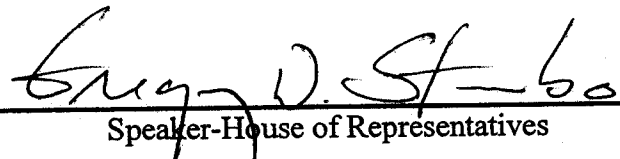
12 Notwithstanding any other provision of law, a lease transaction does not create a sale  
 13 or security interest in a motor vehicle or trailer merely because the lease contains a  
 14 terminal rental adjustment clause that provides that the rental price is permitted or  
 15 required to be adjusted up or down by reference to the amount of money realized upon  
 16 the sale or other disposition of the motor vehicle or trailer.

17 ➔ Section 102. Sections 91 to 99 of this Act take effect July 1, 2013.



21-11-14

  
\_\_\_\_\_  
President of Senate

  
\_\_\_\_\_  
Speaker-House of Representatives

Attest:   
\_\_\_\_\_  
Chief Clerk of Senate

Approved   
\_\_\_\_\_  
Governor

Date 4-11-12